Supreme Court, U.S.
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No.

In the
Supreme Court of the United States

DAVID A. WHITE, *Petitioner*,

v.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, ET AL., *Respondents*

ON PETITION FOR WRIT OF CERTIORARI
TO THE NINTH CIRCUIT COURT OF APPEALS

PETITION FOR WRIT OF CERTIORARI

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38 pp

Questions Presented for Review

1. Whether the court of appeal erred in affirming the district court's dismissal of petitioner's action at the pleadings stage on the unstated (secret) ground that the action is barred because its pursuit would reveal state secrets where the plaintiff was unaware of any relation to state secrets.[1]
2. To what extent can the state secrets privilege be used to deny disclosure of classified information relating to this action such as the technology used against plaintiff, directly or indirectly, such as mind reading/control technology, artificial intelligence, and time machines.
3. Whether the court of appeal (clearly) erred in affirming the dismissal of petitioner's action for failure to state a cause of action where the pro se plaintiff alleged, inter alia, that his Ph.D. advisor sabotaged his admission to the best graduate schools to secure petitioner as a student, university employees faked the death of a fellow student to cover it up, and petitioner was later involuntarily committed to a psychiatric hospital for six days, without any cause, by state university police officers, a psychiatrist, and a psychiatric hospital in furtherance of a conspiracy to deter his attempts to pursue an *invasion of privacy* lawsuit.

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[1] Petitioner's pro se claims for, inter alia, fraud and constitutional violations were dismissed at the pleadings stage by the district court, mostly on clearly erroneous legal grounds. The court of appeal affirmed primarily on the supposed ground of insufficient particularity. Shortly thereafter, plaintiff became aware that the alleged claims were actually the result of petitioner being an unwitting test subject for classified cybernetic technology (although his experiments seem to only be disinformation to hide the bigger secret that everyone had implants), so any discovery would require disclosure of state secrets. Because of this and references in the District Court's orders, petitioner assumes the case was secretly dismissed to protect state secrets.

List of Parties

The petitioner is David A. White, the pro se plaintiff and appellant in the action below.

Most respondents are employees or administrators of respondent the Regents of the University of California ("Regents") and are, or were, associated with University of California, San Diego ("UCSD"), a campus managed by the Regents where petitioner was a Ph.D. student. Those respondents are Ramesh Jain, a faculty member who was petitioner's Ph.D. advisor; Richard Atkinson, prior UCSD Chancellor and current President of the University of California; Robert Dynes, current UCSD Chancellor; Richard Attiyeh, an academic dean; Stephanie M. Martinez, a police officer; Tommy L. Morris, a police officer; Christine Urbina, a residential apartment administrator; Te C. Hu, a faculty member; S. Gill Williamson, a faculty member and previous chair of petitioner's department; and Robert L. Jones, a police officer.

The other non-university-affiliated respondents are John L. Otis, M.D., a psychiatrist; Vista Hill Foundation, a mental health facility; and Mariana H. White, petitioner's mother.

The last respondent is the United States since petitioner believes that the Central Intelligence Agency (CIA)[2], Air

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[2] Petitioner believes he was *unwittingly* used in a highly classified CIA disinformation campaign regarding "mind control" (e.g. MKULTRA). While the mind control experiments themselves were unclassified, the fact that *the whole thing was almost purely a disinformation campaign* would have to be highly classified. Petitioner was, in fact, an unwitting human experimental subject for brain implants (i.e. mind-control) and was trapped in a life-long cover-up of these experiments, and was unaware of it until recently. However, petitioner believes these experiments were really unnecessary for any real research and were a mere cover story to spread the lie that *only petitioner* had brain implants, when actually *everyone already* had them. Furthermore, petitioner believes his father was probably a CIA operative since he was an Ex-Army Captain working in International Business with a son involved in classified experiments. Finally, petitioner believes his

Force,[3] or Department of Defense (DOD) secretly intervened in the action below at the District Court and Appellate Court level and demanded dismissal before discovery on the ground that the subject of the lawsuit was a "state secret" that was privileged under the state secret doctrine and that *even the fact that the state secrets privilege was invoked was a state secret.* See *Kasza v. Browner*, 133 F.3d 1159 (9th Cir. 1998), citing *Bareford v. General Dynamics Corp.*, 973 F.2d 1138 (5th Cir. 1992).

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father's job was to appear to be a spy who had a son who was being used for secret experiments on brain implants and mind control. In reality, the whole situation was probably disinformation, since the experiment did not appear to have been necessary and human spies were not really necessary because of the existence of mass mind-reading capability.

[3] Petitioner believes the state secrets in this case relate, at least, to brain implant technology which allows mind-reading, sensory monitoring, and mind-control of human beings, since petitioner has been an apparent test subject for such technology since birth. Since there is wireless communication throughout the world between the brain implants and Artificial Intelligence (AI) computer system processing the data from the implants, this technology would probably fall within the jurisdiction of the Air Force. Furthermore, the Air Force has published unclassified reports predicting that microscopic brain implants will be used by all its officers by the year 2025. (Petitioner suspects that the government actually had microscopic brain implant technology by 1966 because they could use time machines to obtain technology from the future.)

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I. Opinions and Orders Below

The memorandum decision (App. 1a-4a)[1] and order (App. 62a-63a) of the Ninth Circuit Court of Appeals are unreported. The orders of the District Court (App. 5a-23a, 24a-48a, 49a-57a, 58a-59a, and 60a-61a), including the oblique references to the state secrets (App. 22a, fn. 13) are also unreported.

II. Jurisdiction

Jurisdiction is conferred on this court by 28 U.S.C. § 1254(1) to review the judgment of the Ninth Circuit Court of Appeal entered on August 17, 1999 (App. 1a-4a). Plaintiff filed a petition for panel rehearing and rehearing en banc that was denied on December 9, 1999 (App. 62a-63a). This petition for a Writ of Certiorari is timely as deemed filed by March 8, 2000 (90 days later).

III. Statutory and Constitutional Provisions

The action below was based upon 42 U.S.C. § 1983 and the First, Fourth, and Fourteenth Amendments of the United States Constitution (not included herein). The state secrets privilege, of primary interest here, is based on common law rather than any constitutional or statutory provisions.

IV. Statement of the Case

A. Jurisdiction in District Court

Jurisdiction was conferred on the District Court by 28 U.S.C. § 1343(3) for 42 U.S.C. § 1983 claims for violations of constitutional rights, by 28 U.S.C. § 1331 and 42 U.S.C. § 2000d-7(a)(1) with respect to the Title IX (20 U.S.C. § 1681) claim for sex discrimination against defendant the Regents of the University of California ("Regents"), and 28 U.S.C. § 1367(a) with respect to related claims under state law for fraud, intentional infliction of emotional distress, and public disclosure of private facts.

B. State Secrets Causing Dismissal of Action

The district court, at the end of its final order dismissing the action (App 23a), provided some clues about the real

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[1] "App." is the separately bound appendix included with this petition.

reason for dismissal in its final footnote about state secrets at the end of the September 18, 1998 order since the footnote was obviously indirectly referring to the fact that petitioner had brain implants. First, the footnote cites *Neitzke v. Williams*, 490 U.S. 319 (1989), a Supreme Court case regarding a prisoner alleging eighth amendment violations for denying medical treatment for a diagnosed "brain tumor" which caused equilibrium problems (notably, a symptom caused by petitioner's brain implants). Then, the footnote refers to an article entitled "Bill Clinton Bugged my Brain!..." Finally, the court supposedly found the claims subject to dismissal as being "far-fetched" and "fanciful" although there was no mention to any secrets described here or anything really that would fit in such a category. This seems to refer to the then-non-existent claims of mind control since victims are often made to appear or treated as if mentally ill. Furthermore, a reading of the authorities cited shows that the facial legal arguments in the footnote are specious and could not reasonably be an unintentional "error."

In actuality, petitioner believes the state secrets involved in his case are much more important than simply the use of brain implants on petitioner for mind reading and mind control. In fact, the state secrets involved in this case effect everyone in the world and will likely initially be considered outlandish. However, in the past, most people did not initially believe Copernicus's proposition that the Earth rotated around the Sun, but this did not mean that Copernicus was wrong.

In petitioner's opinion, the primary problem with the technologies described hereafter is not their existence per se, but the fact that they are, and continue to be, shrouded in secrecy. It is simply preposterous to have no public scrutiny of or participation in the use of such powerful technologies for many decades in a supposedly democratic and free country in times when there has been no significant threat to national security. Furthermore, exposure of the technologies

is simply not enough. The public must demand an honest answer to the dark question of why this secrecy has continued so long.

1. Communication With The Past ("Time Machine")

The U.S. Government has created devices that allow electronic messages to be sent into the past. Petitioner estimates that these first generation time machines were invented by 1945 using principles of quantum physics in an ultra-secret project like the Manhattan project and probably intermingled with it at Los Alamos. Virtually all the top physicist of the time likely[2] knew such a machine was possible, but pretended not to see it because the technology could be so dangerous in the wrong hands. These first generation time machines would simply allow the user to send an electronic message[3] (like an "email") into the past.

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[2] Feynman (See App. 142a-150a) almost unmistakably hints that physicists of his day had "half-advanced and half-retarded potentials" since they were "retarded" with regard to issues surrounding time machines. They purposely had "retarded potentials" because time machine technology would have been extremely dangerous if it first fell into the wrong hands. Petitioner believes it must have been obvious to the great physicists that time machines could be built since petitioner, a non-physicist with some related mathematical knowledge from computer science, did not have much trouble hypothesizing the general functionality and inherent limitations of time machines (only roughly described here, but believed by petitioner to be essentially correct).

Of course, if the government could create time machines using quantum mechanics, it is reasonable to assume they (i.e. the NSA) have always had quantum-based computers that can easily break virtually all the standard cryptography (based on public key cryptography) used to ensure "privacy" and "security" on the Internet.

[3] "Electronic message" is purposely singular since each message would have to be sent atomically (i.e. all or nothing, no interactive "phone calls"). Furthermore, the bandwidth (or possibly memory capacity) of each time machine would probably be limited, but would likely increase exponentially in newer time machines. Note that the "electronic message" sent back through time could theoretically contain anything including descriptions of people or objects that could be

As soon as an "email" was sent from the present into the past, the events occurring after the time of receipt would instantaneously reflect the new information in the "email" as if a new "rerun" of time from past to present had occurred, possibly including new "emails" and "reruns", and only those who could monitor the use of that "time machine" would directly be aware any changes had occurred. Anyone else could only indirectly infer that such changes had occurred by noticing that people seem to exhibit impossibly accurate knowledge of the future or, more likely, by observing peculiar "good luck."[4]

It may not be immediately obvious, but such technology is *incredibly powerful*, much more so than nuclear bombs.[5] First of all, it is perhaps the ultimate spy technology since it allows accurate predictions of the future[6] and the ability to change the predicted future. In addition, it allows the past to obtain technology from the future before the research and development has been done, compounding technology as fast as it can be built, to the extent there is cooperation from the future. The end result of the superior technology is absolute power since the first organization to obtain time machines would naturally seek to control (or at least monitor) any use of time machines by others. This is true because any country

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recreated in the past/present using advanced technology developed in the future. Petitioner would not be surprised if such technology currently exists for use with time machines built now to communicate with the future.

[4] Petitioner often felt like "Wile E. Coyote" in a twisted distinctly non-comical "Roadrunner" cartoon, where it was a foregone conclusion that he could not prevail (or die) despite any amount of planning yet, like a gladiator, was still compelled to fight.

[5] This must be true since the time machine can be used to obtain technology that allows much more powerful bombs to be built and to obtain technology to render the opponent's bombs harmless.

[6] Of course, any predictions would only be accurate if they are unaffected by the knowledge of the predictions, so it would often be essential that anyone who could effect the predicted outcome would not know the prediction.

or person with significant funds could potentially build their own time machine, obtain information from the future, and make the money back while building weapons to takeover the world, *while using the time machine to avoid being detected*. The objective of controlling the use of time machines (and other weapons of mass destruction) naturally leads to the development of other extremely powerful technologies including artificial intelligence, massive mind-reading technology, and mind-reading and mind control technologies usable on anyone (i.e. "psychic" secret agents).

Even in mostly benevolent hands, these time machines are potentially dangerous due to possibilities of unexpected side-effects,[7] so self-restraint would usually be the best policy. Regardless, petitioner believes time machines can be, and have been, properly used to improve the condition of everyone in the country by avoiding war and improving the economy. Beyond merely avoiding wars, petitioner believes the government has used time machines to at least give future technology to its own computer companies and create the original Internet infrastructure (and browser). The biggest problem with the time machines is that they have been and continue to be kept secret from the public for no good reason, allowing the "insiders" to take unfair advantage of technology that is the property of all citizens of this country and ultimately the world.[8]

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[7] Saving 100 people now might unexpectedly cause 1000 people to die later. Furthermore, even if 100 people are saved but later 90 more people die (net savings of 10 lives), is it appropriate for a secret government agency to decide, without any public input, that those 90 people (e.g. you) should be sacrificed to save 100 other people.

[8] The physicists apparently chose to allow only the United States to initially build time machines in order to keep the technology out of the wrong hands. Therefore, although the United States may have paid for the development of the technology, the technology was obviously intended to benefit the world, not just the United States.

2. "Psychic" Artificial Intelligence (AI): The Ultimate "Peacekeeper"

Using the time machines, petitioner believes that the U.S. Government built the ultimate "peacekeeping" technology: a computer system with artificial intelligence (AI) that can scan the minds of everyone on earth and exert control over those minds to the extent necessary (i.e. absolute power).[9] The mind reading and mind control capabilities are likely accomplished by using microscopic brain implants, undetectable with conventional medical technology, that are created in the brains of every human being using nanotechnology (i.e. microscopic robots). Once released, the nanotechnology would act like a disease spreading imperceptibly throughout the world's population.

At the very least, this technology would allow the U.S. Government to scan the minds of virtually everyone in the world potentially for dangerous thoughts (e.g. planning a weapon of mass destruction), to focus on specific people (e.g. petitioner) for mind reading and sensory monitoring, and to directly or perhaps indirectly provide government agents with "psychic" abilities such as mind reading and mind control (and perhaps much more). Of course, the technology would be used to prevent any other country from creating similar technology. In addition, this technology seems to allow control over electronic devices (e.g. petitioner's computer, weapon systems[10]) and seems to allow what we might call "telekinetic" abilities.[11] In fact, assuming the government has developed nanotechnology that can create sophisticated

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[9] Mind control or manipulation will often not need to be used since time machines and mind reading can be used alone to tune the actions of the United States (i.e. threats & sanctions) to avoid undesirable outcomes. Use of mind control is undesirable since it could be construed as hostile.

[10] Useful to create mysterious defects (Saddam's SCUD missiles?).

[11] Petitioner has witnessed various noises seemingly caused by small movements of unknown origin, as if the area around him was "haunted." However, petitioner has never observed anything obviously indicating telekinesis, such as objects floating around.

brain implants, it is reasonable that it would be trivial for similar technology to create phenomena like telekinesis. The resulting technology would be similar to "The Force" in from the movie "Star Wars"[12] (except under government control), hence petitioner guessed the Air Force invoked state secrets privilege (to conceal its secret "Top Gun").

As described in the next subsection on page 16, petitioner has personal knowledge of the use (the therefore existence) of mind reading and mind control technology. Petitioner believes the "being" acting as his mind control harasser and created unexplained noises is an AI computer system acting on human instructions from the government, although the "being" acts and reacts as if it were a normal human.

3. Is it Orwell's *1984*?

At this point in history, the primary problem with time machines and related technologies is that they have been kept secret from the public much longer than necessary and therefore continue to be outside of democratic control. Because the secret technology is (and was) so prevalent yet invisible, Americans have been left living in a sort of dream world strikingly similar to the world described in Orwell's book *1984*. In Orwell's *1984*, the public was brainwashed by government controlled media[13] to always focus on the evils

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[12] Wars in the "Star Wars" movies were actually fought/won by those controlling "The Force," not by using massive weapon systems.

[13] Of course, the media has been deeply involved in perpetuating the government's huge lies mostly in the form of material nondisclosures. At least some compromising partial truths were told but, of course, they were not generally believed. Rather than uselessly placing blaming the media, the appropriate response is, at a minimum, to intelligently question all media accounts. After all, the media had no choice but to perpetuate the lies because the government had (and for the moment still has) absolute power. For example, say someone decided to attempt to expose something. That person would be identified by the government's mind-reading technology ahead of time. If not, a time machine could be used to notify government agents in the past of a prospective threat of exposure. In any case, depending on the nature of the exposure, the government could either prevent the exposure altogether or simply use a

of some outside enemy and perpetual war[14] so that they would never really perceive or question the systemic oppression[15] by their own government including its continual monitoring and use of the Thought Police.[16] The government actually rewrote history[17] in order to accomplish its goals. There was no real resistance since the government had absolute power. The only rebels were those created by the government itself to fulfill its need to put forth examples of its wrath to deter any real resistance.[18] The only real goal of those in power was to maintain absolute power.[19]

Although petitioner[20] was used like Orwell's Winston Smith[21] to demonstrate the U.S. Government's willingness to

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discrediting campaign and/or punishment afterwards. Therefore, any real exposure is simply impossible unless the government allows it, although most of the public would be unaware of it and not believe it.

[14] The cold war with Communism and the former U.S.S.R. (i.e. War is Peace)

[15] The oppression here includes illegal human experimentation and needless secrecy preventing the release of technology that could greatly benefit society.

[16] Our government's secret mass mind-reading and mind-control technologies managed by artificially intelligent computer systems and human secret agents with access to those technologies.

[17] Our government, and probably others (Japan?), have also "rewritten history" since time machines allow the government to invisibly change events in the past.

[18] Like the Winston Smith character in *1984*, petitioner White was misled and forced by circumstance to become a rebel (according to the government's own plan).

[19] By the year 1984 (but not decades before), the conspiracy operated primarily just to perpetuate itself and maintain absolute power. The first Roswell press release on space aliens was on 7-7-47. In Orwell's *1984*, Winston started his illegal journal writing on 4-4-84.

[20] Petitioner believes other people were also tortured in order to scare other people into silence and has personally witnessed the torture without realizing it at the time. These victims are intentionally not named since they may not understand that they were used or refuse to admit it.

[21] Note that "Winston" was the most popular brand of cigarettes at the time of *1984*'s publication and seems to refer to big tobacco. The very

ruthlessly and irrationally[22] torture its own citizens, the analogy breaks down with the filing of this petition, which represents a sort of capitulation of those in power. Of course, the Party in *1984* resembled inefficient communism totalitarianism rather than our more economically efficient and effective capitalistic representative pseudo-democracy.[23]

4. Implications for the Judiciary and Law Enforcement.

One obvious reason why public knowledge of this technology is so critical is the prospective impact on the judicial system sometime in the future. The following are petitioner's predictions of the eventual impact. Investigation of wrongdoing and fact finding will be much easier and more accurate due to mass mind-reading technology connected to artificially intelligent computers which will eventually eliminate perjury, lack of memory problems, and witness intimidation. The innocent will virtually never be prosecuted and all innocent prisoners, including those *sentenced to death*,[24] will be set free. Furthermore, nearly perfect law enforcement will be obtainable if sufficient resources are provided. Perhaps most importantly, via improvements in fact-finding, the judicial system will be able to provide much greater equality between the various classes in our society created by wealth, connections, race, etc. and such equality will therefore be imposed upon law enforcement. Police will no longer carry guns or use deadly force and their role will

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common name "Smith" was probably chosen to represent the fact that it could happen to anyone.

[22] Apparent irrationality is often not irrational: people tend to avoid offending known madmen. See *Prisoner's Dilemma* by William Poundstone, "Chicken...," pages 195-213 including "The Madman Theory," pg. 212-3 (Game Theory).

[23] How can there really be a democratic government when the people, for decades, are unable to really perceive their government's conduct because almost everything important is shrouded in secrecy?

[24] Perhaps everyone sentenced to death should get a (federal) stay of execution until this is straightened out.

shift towards problem solving and away from investigation. Finally, the punishment for crimes will be revolutionized so there will be less prisons and more focus on rehabilitation. Many of today's non-violent crimes (e.g. drug crimes) will be reclassified as primarily medical or psychological problems and legalized or pseudo-legalized (unenforced).

It should be noted that these changes will take time to go into effect and *this lag time should be minimized.* First, there will have to be enough proof that the technology exists so that the government will begin releasing information derived from the technology (e.g. probably the first challenges will be subpoenas for exculpatory evidence to free the innocent). Then, there will have to be numerous U.S. Supreme Court rulings to revise constitutional law in light of the new technology. Petitioner believes the Court will make at least minimally intrusive mind-reading information available for criminal and civil cases. However, until courts acknowledge the use of this technology as evidence, the technology will be useless in law enforcement because the U.S. Constitution prohibits ex post facto laws.[25] There will also need to be new state and federal legislation to revise the law in light of the new technology, since both criminal and civil law assume difficulty in enforcement (many penalties will be made less harsh or possibly eliminated).

5. Since "There is No Such Thing as a Free Lunch," Are Massive Human Experiments Being Used to Develop the Technology Already in Use?

The most important reason why public knowledge of this technology is important is because without it, there is

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[25] However, secret government agents could surreptitiously use the technology to obtain old-style evidence of wrongdoing. Although this evidence would technically be inadmissible, its unconstitutional source could not be proven since the official investigators would have clean hand (e.g. anonymous or non-governmental source). Beware criminals who offend the "powers that be" or are politically incorrect. That begs the question: Was the presidential impeachment really a mistake?

absolutely no democratic regulation of any abuse of the technology. One very important issue specifically raised in this action is human experimentation, and it seems to be the area ripest for abuse. This is true because *there are obvious systemic reasons why the government would want to exploit as many people as possible for use in unwitting human experiments, especially psychological experiments*. This is true because (1) the time machine depends on the future cooperating with the past, (2) any scientific or technological knowledge must be developed at sometime via experiments ("There is no such thing as a free lunch," even with time machines.), (3) therefore, the past obviously would be expected to trade something for the future's technology, especially the critical psychological (mind-related) technologies, and (4) it is easiest to exploit humans for experimentation in the past since they can not defend themselves due to ignorance and lack of legal protection for various reasons (e.g. can not prove it). Petitioner simply has no way to estimate how prevalent such human experimentation is,[26] but because of the systemic factors outlined above believes it is in the best interest of every citizen in this country to demand that as much information as possible about classified human experimentation is released.

With respect to the points above, some types of knowledge can easily be developed in the future but would be much more difficult to develop in the past. Therefore, the future would often be willing to provide knowledge of these technologies to the past for free (no strings) because the past will automatically develop the technology for use in the future so that both the past and future profit from the exchange of knowledge (e.g. computer technology). Such

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[26] Potentially, the entire population could be used as (read-only) test subjects without knowing it. The government could only possibly justify subjecting a small percentage of the total population to experiments that would cause adverse effects or severe adverse effects, but even a "small percentage" is *millions of people*, potentially resulting in more effective human casualties than the Vietnam War.

symbiotic exchanges between the past and future are of least concern here, but it should be noted that even in these cases, the insiders were probably allowed to take unfair advantage of the situation (e.g. IBM, Intel/AMD, & Microsoft). However, as mentioned in (4) above, any type of technology that requires human experimentation would be more easily developed using subjects from the past because it is easiest to exploit subjects in the past using future technology. In these cases, the exchange would be more parasitic since the future would likely require the past to secretly exploit its innocent population in return for access to technology. Furthermore, the mind-reading and mind-control technologies described above are admittedly extremely important for national security and would require significant human experimentation for its development, so it is reasonable to conclude that the U.S. Government would be willing to agree to almost any terms the future would demand in order to obtain this technology.

Since the mind-reading and mind-control technology would require massive psychological testing, it would be most convenient if the test subjects appeared to be mentally ill because they would provide their reactions to the mind-control stimulus. *Therefore, petitioner strongly suspects that "mental illnesses" such as obsessive compulsive disorder, phobias, bipolar disorder, schizophrenia, etc., are often, or perhaps always, really only adverse effects of massive psychological experiments by the government controlled by the government's AI computer system.* For example, obsessive compulsive disorder is a perfect cover for mind control experimentation designed to compel certain behavior (i.e. obsessive-compulsives are irrationally compelled to engage in ritualistic acts). Phobias are also a useful cover for mind control experimentation designed to prohibit certain behavior since the victim is controlled by irrational fear. Manic-depressive or bipolar disorder would be useful cover for experiments used to study the effects of stimuli on human productivity, since two types of stimuli can be used on the

same person. Schizophrenia would be cover for the most horrible experimentation involving hallucinations and almost complete loss of the ability to function.

6. Evidence: Readily Available to Anyone

Given that everything petitioner has described is classified, one would wonder what evidence petitioner could possibly possess to prove these allegations beyond personal testimony related to his legal claims (next section page 16). Perhaps surprisingly, there is some pretty convincing independent evidence, freely available, that time machines and mind reading technology do exist. The only real difficulty has been in knowing where to look.

The most convincing single source of information is the book *Surely You're Joking, Mr. Feynman!* by Richard P. Feynman, a Nobel Prize winning physicist who worked on the Manhattan Project (A-Bomb) and was apparently involved in the development or use of the first time machines. Of course, the book never directly mentions these secrets, but the careful reader can read between the lines. However, with these comments, Feynman's message should be clear to anyone. A longer and more accurate analysis is presented in the appendix (App. 142a-150a), but some condensed highlights are included here. The most obvious clues are on page 132. First, Feynman says that Von Neumann taught him "that you don't have to be responsible for the world that you're in." Immediately thereafter, he speaks of physicist Niels Bohr a.k.a. "Nicholas Baker" and his son named "Aage Bohr" and mentions they wanted to ("*see* the great Bohr"). Feynman's point is that he does not worry about the world because the government has time machines. The reference to "Aage Bohr" is obvious and "Nicholas Baker" could be interpreted mean a Santa Claus maker (a time machine provides "gifts" like Santa Claus).

In addition, on page 17, Feynman mentions "WACO in Waco, Texas" and then talks about how he managed to receive radio broadcasts an hour early as a child (the book was published in *1985*). In "Monster Minds" starting on

page 77, he tells a story about giving his first technical talk on an ingenious theory that standard electron interaction involves waves propagating backwards in time and how Einstein frankly stated that the (time machine related) theory could be correct (i.e. a "frank Einstein" secretly lurks in the chapter on "Monster Minds"). Finally, on page 150, Feynman talks about the grave concern about someone trying to get into "Building Omega." Of course, "Omega" mostly likely refers to the biblical reference in Revelation 1:8 regarding God's existence in the past, present, and future (See App. 151a).

The book, *Prisoner's Dilemma* by William Poundstone (i.e. Prisoner [petitioner] will pound stone), Copyright 1992, about "John von Neumann, Game Theory, and the Puzzle of the Bomb," is also interesting. The cover has a 7x7 matrix (Revelation 7:7) with 50 boxes (50 states in U.S.), the 50th is next to 26 (2x13, 13 States, Revelation 13), a "666" (the beast), a "94" (faked suicide), and four squares (U.S. is 4th beast). The apparent dedication is "TO MIKOLAS CREWS" seems to refer to the AI peacekeeper. It sounds like "Tom Cruise" (the "Top Gun") on the outside, and sounds like "My Allah Screws" (my god screws) on the inside right. On page 26, it refers to the quote on page 132 of *"Surely Your Joking, Mr. Feynman!"*

Another piece of evidence is "The Raven" by Edgar Allan Poe, Copyright 1845 (App. 162a-168a). This poem seems to provide evidence of eventual full-blown time travel and mass mind-reading designed to protect the human race from self-annihilation by nuclear weapons. Of course, "Raven" is a large black crow, but, means black when used as adjective (as in classified). There are references to "Plutonian" which seems to refer to "plutonium," an element used to build nuclear weapons (App. 164a, 167a). "Lenore," meaning "the NOR,"[27] probably represents the computer

[27] NOR gates are basic building blocks of computers from which any binary function can be computed (i.e. any computation).

(App. 162a). The "unseen censer" probably represents the nanotechnology (App. 166a). The eleventh stanza explains the Raven's reiteration of "nevermore" (App. 165a):

> 'Doubtless,' said I, 'what it utters is its only stock and store caught from some unhappy master whom unmerciful Disaster followed fast and followed faster till his songs one burden bore...of 'Never – nevermore.'

The final stanza seems to say that "The Raven" is here to stay (App. 167a). The other poem, "To Helen" also seems to refer to time travel (App. 168a).

Finally, there are references in musical works by Alan Parsons' groups.[28] The most obvious are in the "Eye in the Sky" album from 1982. The first instrumental is named "Sirius" followed by the song, "Eye in the Sky" with the chorus stating, "I am the eye in the sky, looking at you. I can read your mind. I am the maker of rules, dealing with fools. I can cheat you blind." The rest of the song is also on point. Other songs are also interesting including, "Silence and I." Furthermore, the first album from 1976 includes a song based on "The Raven" and the recent album from 1999 is "The Time Machine." Of course, there are apparent references by other musicians and groups such as Sting and R.E.M.

TV show "The X-Files," owned by 20th Century Fox Television, revolves around these state secrets without ever providing enough information for the uninformed to understand. The main character is "Fox William Mulder," a FBI Agent with a degree in psychology, who primarily works to unravel the government's conspiracy regarding space aliens (i.e. Roswell). Another name for the character is obviously, "20th Century Fox Will Mulder." Of course, this is an apt name for the peacekeeping artificial intelligence

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[28] Note that "Parsons" is similar to the word "PARSIN" in Daniel 5 (App. 156a) which was the critical word in "the writing on the wall." Furthermore, petitioner's middle name is "Allen." In the first chapter of Orwell's *1984*, Winston was interrupted by a Mrs. Parsons character while committing his first fatal thoughtcrime on 4-4-84.

system, because it was created in the 20th Century, is fox-like (i.e. crafty and "crazy like a fox"), is a federal agent specializing in psychology (i.e. mind-reading), and is a will molder (i.e. has mind control capabilities). The "X-Files" was created by "Chris Carter" (i.e. Christ carter or a prophet). Finally, the actor playing "Fox Mulder," named *David* Duchovny, has recently filed a lawsuit against "20th Century Fox," alleging a conspiracy against him. The "X-Files" and other media references such as "The Truman Show"[29] were included in the operative complaint (App. 67a), but there are many more than were mentioned there: too many to mention.

There also seem to be biblical references to issues presented here, but these are practically useless as evidence of the activities of the Government. Nonetheless, these references are extremely interesting and even prophetic, so they have been included in an appendix (App. 151a-161a).

C. Statement of Facts Regarding Petitioner

First of all, it should be noted that while petitioner was attempting to write this petition, he has been subjected to handicapping via the brain implants, greatly reducing his productivity and not allowing him to really "finish" it. This seemed to be done to prevent him from filing the petition early, which he would naturally want to do because of the handicapping/harassment. At the same time, petitioner was being fed useful clues recently and years in the past. That is, the AI and others were acting sort of like double agents. Even with clues, petitioner still had to be smart enough to independently understand the truth amid seemingly endless layers of lies and verify it so he would believe it.

1. Brain Implant Experiments Starting at Birth

Petitioner was born about a month premature on May 6, 1971 at Highland Park Hospital near Chicago, Illinois. Probably, the premature birth was designed to obtain the

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[29] The conspiracy began around 1947 during Truman's presidency.

desired birthday.[30] Recently obtained baby pictures (App. 169a) show a groove on the top of petitioner's head that seems to indicate that petitioner, although healthy, underwent some type of neurosurgery shortly after birth. Petitioner's mother has stated that petitioner seemed to cry much more often and need more attention than any the other three children in the first few months of life. This was probably due to suffering from premature birth and the neurosurgery. Furthermore, petitioner believes at least one additional round of neurosurgery was performed sometime when petitioner was young, since there are artifacts on petitioner's skull that would have disappeared if the only operation had occurred at birth. Petitioner has no memory of any neurosurgery.

However, petitioner often suspected that he had some kind of brain damage because some parts of his brain seem to work much better than others, even before he was aware he had any neurosurgery done. Nonetheless, petitioner was able to graduate summa cum laude in computer engineering and placed in math competitions without studying (nonverbal intelligence in low genius level). Petitioner now believes his brain was somehow slowed down and his memory was somehow decreased, causing petitioner to have to work hard to assimilate general information (e.g. memorize) although he would obtain a better understanding of concepts. Petitioner's mother also hinted that petitioner was actually smarter than he appeared to be.

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[30] Petitioner suspects he is not the biological child of his father, but that, unbeknownst to his mother, another father was used (via artificial insemination) to make petitioner more intelligent. Petitioner believes one of his brothers, with many obvious similar traits, also has the same father, but his other brother and sister were normal (i.e. a full-brother, a half-brother and a half-sister). This would be easy to prove with DNA paternity testing, but such tests have not been done. The "being" harassing petitioner has indicated this suspicion is true, but it has little credibility since it lies about everything.

2. Petitioner Believes He Was an Unwitting Participant in CIA's Mind Control Disinformation Campaign

The horrible irony about the experimentation is that petitioner does not believe any of it was really necessary for any real (classified) scientific research (although it may have been useful to perpetuate lies). As stated above, petitioner believes the government must have (and must have had) nanotechnology that can create brain implants without surgery, so the neurosurgery on humans would probably never be required for the *real* research. Hence, petitioner believes he was part of a large CIA disinformation campaign regarding mind control and believes his father was CIA operative. The primary goal was probably to convince U.S. citizens and foreign intelligence that neurosurgery was required to install brain implants and to allow mind control, so no one would realize that *everyone already had brain implants*. A secondary goal was probably to steer scientific research in the wrong direction. The disinformation campaign, seemingly headed by the CIA, seemed to revolve around so-called "mind-control." MKULTRA and other related projects were part of this campaign. Another part of the campaign was the 1969 publication of *Physical Control of the Mind: Towards a Psychocivilized Society* by José M.R. Delgado, M.D.

In fact, a large part of CIA's task has been to perpetuate layers of disinformation to foreign intelligence and the American people to "protect intelligence sources and methods," 50 U.S.C § 403-3(c)(6). For example, petitioner believes the CIA could obtain any information it would ever need without any human spies since before petitioner has been born in 1971 using mass mindreading. However, human intelligence spying was still necessary in order to cover-up the fact that the CIA had even better intelligence gathering methods. Petitioner's father appears to have been one of the (redundant) CIA operatives since he was an ex-Army captain in working international business and often

traveled. After all, his son was a real test subject in an apparent CIA cover/fake experiment on brain implants/mind-control. Petitioner's mother probably knew about the experiment, but not that it was a cover/fake experiment or that there would be a cover-up lasting almost 30 years.

3. Symptoms Caused by Brain Implants

The "being" operating petitioner's brain implants (probably an AI) has demonstrated the following capabilities: obtaining complete motor control of the neck coordinated with the rest of the body (used for ouija-board-like responses to thoughts, head jolting like punches, and sometimes even dancing movements); mind reading including recognizing linguistic and visual thoughts; eyesight monitoring; simulated perception of a detailed visual pattern (eyes closed); creating detailed dreams, simulated sickness, simulated coughing, simulated chronic and sharp pains anywhere on the body, digestive problems such as diarrhea, simulated or intensified emotions (e.g. anxiety, rage), dizziness, insomnia and lethargy, muscle twitches, heart palpation, and balance problems; projecting thoughts; creating urges to do something; and temporarily blocking memories (i.e. phone numbers). Petitioner believes that every human on earth is susceptible to the same technology, but would typically be unaware when it was used. In petitioner's case, he was unaware of any outside influence until it became completely obvious, but then realized it had been happening throughout his life (i.e. petitioner once mysteriously fell/jumped off the back of his bike and was knocked out by the concussion).

The worst torture occurred when the brain implants were used to intensify real emotions before petitioner was aware of what was happening. Now that petitioner knows he is being manipulated, he can much better mentally defend himself and avoid the harshest psychological pain.

D. Statement of Facts Alleged Below

The operative complaint contains the following six causes of action, virtually all framed as civil conspiracies: (1) fraud (admissions fraud and faked suicide), (2) intentional

infliction of emotional distress (fraud and harassment), (3) violations of White's constitutional rights under 42 U.S.C. § 1983 (retaliation to deter lawsuits), (4) public disclosure of private facts (caused by surveillance and large conspiracy), (5) Title IX sex discrimination under 20 U.S.C. § 1681, and (6) injunctive relief under Calif. Code of Civil Procedure § 527.6 (ongoing harassment and surveillance). Due to space constraints, only summaries of a few critical claims are included (66-page complaint): the Admission Fraud because it started the wrongdoing at UCSD, the faked suicide since it seemed to greatly escalate the situation, and the imprisonment in a psychiatric hospital because it must state a federal Section 1983 claim since it directly alleges personal knowledge of overt acts by state officers depriving White of his constitutional right to liberty.

1. Admission Fraud

Plaintiff David A. White ("White") was a very promising undergraduate student at University of Michigan in Computer Engineering from September 1989 to May 1993 (GPA: 3.87 overall, almost 4.0 GPA in major). White became acquainted with defendant Ramesh Jain ("Jain") when he contacted Jain in order to become involved in research as an undergraduate in late 1991 and thereafter began working with a Research Scientist who was a previous student of Jain. Jain was in the process of moving from University of Michigan to University of California, San Diego (UCSD) at the time White was applying for graduate school. Upon information and belief, Jain then created and executed a plan to sabotage White's admission to graduate schools, probably by writing adverse letters of recommendation, so that White would unknowingly attend UCSD and work with him.

In order to accomplish this plan, White alleged Jain primarily told White that he believed White would be admitted to all the top graduate schools in his field, but simultaneously strongly recommended that White apply to UCSD as a backup. In addition, Jain gave White a job at his local startup company, gave him an A+ in his class, and

mentioned that a student had been caught faking a letter of recommendation written by Jain in order to obtain a job. White also alleged that he would not have applied to UCSD except for Jain's recommendation. White then was not admitted to any graduate schools except UCSD, to his surprise since White expected to at least be admitted to UC Berkeley. Unaware of the sabotage, White then decided to attend UCSD and later decided to work as Jain's student.

2. Faked Suicide/Death

White alleged that in an effort to reduce the risk that White would be told of the admissions fraud, defendant Ramesh Jain and others at UCSD planned to fake the death via suicide of a graduate student (Jeffrey S. Casey). Specifically, plaintiff plead that defendants falsely represented that Casey committed suicide via a phone call announcing his suicide, a department meeting, a ceremony commemorating him, a memorial bench, and a newspaper article. Defendant Jain was alleged to be involved by helping to plan the faked death in an effort to cover-up the admissions fraud. Defendant Williamson was alleged to be involved by making comments in the department meeting and by being chair of the CSE department. Robert L. Jones was alleged to have pretended to investigate the death and provide false information for the coroner's report. Further, although White does not allege what really happened to Casey, White alleged he knows the suicide was faked because the autopsy records had pictures of the wrong body, the weight was about 50 pounds heavy, and circumstances indicated Casey's family and the medical examiner must have known. Further, there were other coincidental circumstances such as the "suicide" occurring on White's birthday and the day of claimed birthday and birthday party of another person with an apparently faked background/ID.

3. Retaliation Including False Imprisonment in Mental Health Facility

In the complaint, White included many allegations of serious retaliatory conduct designed to deter White from

exposing the conspiracy via lawsuits. However, most retaliatory harassment (e.g. overt surveillance for years) was done by unknown Does hired by the university, rather than university employees themselves, so allegation of this retaliatory conduct might be misinterpreted as so-called conclusory allegations of conspiracy. However, this can not be true of White's imprisonment for six days at a mental health facility for supposed mental illness since university police officers personally participated. Specifically, White alleged that on March 5, 1997, defendant Martinez, a University police officer, put White in handcuffs, locked White in a police car, and transported White for involuntary detainment at a mental health facility without any cause whatsoever, apparently in furtherance of the conspiracy. Defendant Morris, another University police officer, was also involved in the unlawful detainment in a supervisory role. White specifically alleged this happened after he drove home from getting a haircut, yet the reason for White's involuntary commitment was later determined to be that White was supposedly "gravely disabled."

White alleged Vista Hill Foundation, the owner of the mental health facility, was involved in the conspiracy to unlawfully detain White because employees knew White was not "gravely disabled" and willfully and knowingly kept White in the locked facility and discouraged White from requesting a Writ of Habeas Corpus and instead recommended an internal hearing. White finally was released after he requested judicial review. A psychiatrist, Otis, was involved in the conspiracy by misrepresenting that White was suffering from a schizophrenic disorder before and after White's imprisonment, and abusing his authority by imprisoning White at the hospital and prescribing and instructing White to take medication that debilitated White.

V. Argument

As should be clear given the statement of the case, this case involves very important questions of federal law that have not been, but should be, settled by the U.S. Supreme

Court. In the apparent interests of national security, the executive branch has submitted, and continues to submit, petitioner (and perhaps millions of other citizens) to secret unwitting experimentation that causes great harm to those involved. Using a very broad and absolute[31] claim of state secrets privilege, the executive branch can continue, with complete and utter impunity, to inflict gross harm indefinitely on petitioner and any others similarly situated and can avoid any and all claims for damages. The U.S. Supreme Court, in fulfilling its Article III constitutional duty, must not allow this to continue.

A. State Secrets Privilege

In *United States v. Nixon*, 418 U.S. 683, 94 S. Ct. 3090, 41 L. Ed. 2d 1039 (1974), the Supreme Court reiterated the longstanding judicial position that the applicability of any privilege is undeniably a question for the courts to decide:

> Since this Court has consistently exercised the power to construe and delineate claims [of the Legislative or Executive Branches] arising under express powers, it must follow that the Court has authority to interpret claims with respect to powers alleged to derive from enumerated powers.

418 U.S. at 704, 94 S. Ct. at 3105. Furthermore, that Court, *id* at 703, stated that in many decisions it has unequivocally reaffirmed its *Marbury v. Madison*, 1 Cranch 137, 177 (1803), holding that "[i]t is emphatically the province and duty of the judicial department to say what the law is." Hence, failure to grant certiorari in this case, shirking the duty to *say what the law is*, would be a clear breach of duty of the Supreme Court to the Citizens of the United States.

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[31] The privilege is absolute in the Ninth Circuit, at least, where petitioner has resided since 1993. *Kasza v. Browner*, 133 F.3d 1159, 1166 (9th Cir. 1998).

The Supreme Court in *United States v. Reynolds*, 345 U.S. 1 (1953) outlined the general process used to handle the state secrets privilege:

> The privilege belongs to the Government and must be asserted by it; it can neither be claimed nor waived by a private party. It is not to be lightly invoked. There must be a formal claim of privilege, lodged by the head of the department which has control over the matter, after actual personal consideration by the officer. The court itself must determine whether the circumstances are appropriate for the claim of privilege, and yet do so without forcing a disclosure of the very thing the privilege is designed to protect.

Id. at 7-8 (footnotes omitted). The Supreme Court also stated,

> Where there is a strong showing of necessity, the claim of privilege should not be lightly accepted, but even the most compelling necessity cannot overcome the claim of privilege if the court is ultimately satisfied that military secrets are at stake.

Id. at 11. The Ninth Circuit has interpreted this statement to mean that, "Once the privilege is properly invoked and the court is satisfied as to the danger of divulging state secrets, *the privilege is absolute*." (emphasis added) *Kasza v. Browner*, 133 F.3d 1159, 1166 (9th Cir. 1998). Furthermore, this absolute privilege can bar release of even *unclassified* information, "If seemingly innocuous information is part of classified 'mosaic,' state secrets privilege may be invoked to bar disclosure of such information." *Id.* at 1166. The Court later stated, "As the very subject matter of Frost's action is a state secret, we need not reach her other arguments." *Id.* at 1170. Most likely, this was line of reasoning used in affirming the dismissal of petitioner's action.

However, at least the holding that the state secrets privilege is *absolute* must be erroneous. There is always a

possible constitutional exception to any claim of state secrets privilege where harm caused by the maintenance of the state secrets outweighs the potential danger to national security. It is effectively the "cure is worse than the disease" exception to the state secrets privilege, implicit in the constitution, which allow judicial branch to keep the executive branch from its natural tendency to overstep its constitutional authority. The D.C. Circuit noted that,

> ...although the attempt to claim Executive prerogatives or infringe liberty in the name of security and order may be motivated by the highest of ideals, the judiciary must remain vigilantly prepared to fulfill its own responsibility to channel Executive action within constitutional bounds.

Zweibon v. Mitchell, 516 F.2d 594 (D.C. Cir. 1975) (en banc) (plurality opinion), cert. denied, 425 U.S. 944, 96 S. Ct. 1684, 48 L. Ed. 2d 187 (1976).

B. The Ninth Circuit Clearly Erred in Affirming the District Court's Decision on Grounds Given.

As shown in the argument presented hereafter, the Ninth Circuit's decision was clearly erroneous on the grounds and even misstated names and facts. Of course, as stated above, the case was actually decided on the secret unstated ground that the action was barred by the state secrets privilege. Even after simply reading the background statement in District Court's initial order dismissing the action (App. 25a),[32] it is clear that the action was erroneously dismissed. However, the entire operative first amended complaint is included in the appendix (App. 64a-141a).

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[32] Although the District Court's background applied to the original complaint rather than the first amended complaint, the only possibly material difference was that the cover-up involved a faked death rather than a murder.

1. Fraud Claims Were Plead with Adequate Particularity

The panel incorrectly found that White did not plead fraud with sufficient particularity "[b]ecause White failed to allege with particularity 'the time, place and specific content of the false representations,'" citing *Miscellaneous Serv. Workers, Drivers, & Helpers, Teamsters Local #227 v. Philco-Ford, Corp.*, 661 F.2d 776, 782 (9th Cir. 1981). Actually, that authority states that the particularity requirements for pleading fraud in FRCP Rule 9(b) have been interpreted to mean that the time, place, and specific content of the false representations can be required, but not that these elements of a fraud claim need themselves be pleaded with particularity. Even if White's 66-page first amended complaint was lacking in particularity, for instance, as being partially based on information and belief, the pleading was adequate given that White was not given any meaningful access to discovery, White was unable to obtain the facts without discovery, and the facts alleged on information and belief are peculiarly within defendant's knowledge or control. *Weiner v. Quaker Oats Co.*, 129 F.2d 310, 319-320 (3d Cir. 1997). *Corley v. Rosewood Care Ctr., Inc.*, 142 F.3d 1041, 1051 (7th Cir. 1998). In addition, as argued below, White's other related non-fraud claims were not defective, so some discovery should have been allowed before the fraud claims could reasonably be dismissed with prejudice. Therefore, under the circumstances of this case, White allegations were adequate, at least to justify some discovery, as providing the circumstances constituting fraud so that the defendants could prepare an adequate answer from the allegations. *Gottreich v. San Francisco Investment Corporation*, 552 F.2d 866 (9th Cir. 1977). For example, for the claim for a faked suicide/death staged pursuant to cover-up, White alleged who supposedly died, when, where and how the death supposedly occurred and generally who made false representations about it, when, where, why representations are false, and a motive for making the false

representations (to cover-up admissions fraud). Plaintiff also generally alleged the time, place and specific content of representations made by Jain pursuant to his admissions fraud scheme.

2. Promissory Fraud Claim Against Jain Properly Stated

White stated a claim against defendant Ramesh Jain ("Jain") for promissory fraud to induce entry into an employment/educational contract since White alleged he was fraudulently induced to apply to and attend a less prestigious graduate school and work with Jain based on Jain's statements and actions implying a promise to support White in his attempts to obtain admission to other better graduate schools when Jain actually intended to, and did, sabotage White's attempts to obtain admission at other better schools without White's knowledge. See *Lazar v. Superior Court*, 909 P.2d 981, 984-5 [12 Cal.4th 631] (Cal. 1996).

3. Conspiracy to Defraud Claim For Faked Suicide Properly Stated

White stated claims against defendants Jain, Williamson, and Jones for conspiracy to defraud (or aiding and abetting fraud) when he alleged those defendants conspired to fake the suicide/death of a student in furtherance of a conspiracy to conceal the admissions fraud and other wrongdoing, since the alleged purpose of the faked suicide was to prevent everyone from telling White of the fraud.

4. Decision Erred in Name of Student Whose Suicide Was Faked and Should Have Stated Suicide Was Faked Death (Or Possibly a Murder)

The decision erroneously stated that "defendants misrepresented the suicide of James Casey" (emphasis added) when the correct name alleged on the record was always either "Jeff Casey" or "Jeffrey Casey." Furthermore, the decision was not completely accurate in stating that White alleged a "conspiracy ... to conceal a murder." The appellant's brief did focus on murder rather than a faked

death. However, in the operative (first amended) complaint, White actually alleged Casey's faked suicide was probably a faked death but might have been a murder, and as stated hereafter, White now believes the "suicide" was, in fact, a faked death.

5. Intentional Infliction of Emotional Distress Claim Properly Stated

White certainly stated an intentional infliction of emotional distress claim since the alleged outrageous fraud (admissions fraud and faked death) that qualifies as outrageous conduct. *Molko v. Holy Spirit Foundation*, 46 Cal.3d 1092, 762 P.2d 46 (1988). Also, the alleged conspiracy to surveil and harass related to employment also constitutes outrageous conduct for an emotional distress claim. *Rentura v. County of Orange*, 82 Cal.App.3d 833 (1978).

6. Cited *Woodrum v. Woodward* is Inapposite to White's Section 1983 Claims

The panel found that White's claims under 42 U.S.C. § 1983 were properly dismissed citing *Woodrum v. Woodward County*, 866 F.2d 1121, 1126 (9th Cir. 1989). That authority is certainly distinguishable from this case, since County employees in *Woodrum* were charged with a "conspiracy" to do their normal job so the court found the allegations to be conclusory. The employees merely denied access to a child to protect the child from potential molestation based on false allegations of a private party. Similarly, courts reject claims against attorneys for "conspiring" with their clients based on allegations of mere negligent legal advice or legal defense. In the instant case, the situation is completely different since the allegations do not relate to legitimate activities of the state university employees.

7. Section 1983 Claims for Imprisonment in Mental Hospital Was Not Even Mentioned in Decision and Clearly States a Claim

White stated a 42 U.S.C. § 1983 claim, at least, when he alleged that state University police officers transported him

for involuntary detainment at a private psychiatric facility without cause in furtherance of a conspiracy to deter him from pursuing lawsuits exposing fraud. See *Gibson v. United States*, 781 F.2d 1334, 1340-1341 (9th Cir. 1986) and *Hoffman v. Halden*, 268 F.2d 280 (9th Cir. 1959). Also see "Requirement for a Hearing" section of *Doe v. Gallinot*, 657 F.2d 1017 (9th Cir. 1982). The alleged conspiracy was perpetrated by defendants including state University officials and faculty and included claims against the psychiatrist and the psychiatric facility. In fact, the decision failed to even mention this specific part of the 1983 claim although it was only real claim argued in the appellees brief filed by psychiatrist Otis and facility Vista Hill Foundation.

8. Section 1983 Claims For Other Retaliatory Conduct Properly Stated

The decision erroneously found alleged retaliatory conduct perpetrated by university defendants was insufficient ("harsh words insufficient") relying on *Nunez v. City of Los Angeles*, 147 F.3d 867, 874-5 (9th Cir. 1998), although White alleged serious surveillance and harassment caused by those defendants but carried out by unknown Doe defendants. This is cognizable under Section 1983 as retaliation by named defendants since, "a requisite causal connection can be established by setting in motion a series of acts by others which the actor knows or reasonably should know would cause others to inflict constitutional injury." *Johnson v. Duffy*, 588 F.2d 740, 743-4 (9th Cir. 1978). Further, since "the causation issue in first amendment cases is purely factual," it must be impermissible to dispose of such allegations of a retaliatory constructive discharge at the pleadings stage. *Gilbrook v. City of Westminster*, 177 F.3d 839, 854 (9th Cir. 1999).

9. The Title IX Claim Should Have Been Dismissed Without Prejudice

The Title IX claim under 20 U.S.C. § 1681, even if properly dismissed, should have only been dismissed *without prejudice* since White now believes that he may be able to

amend to state a timely claim based on fraudulent concealment as described hereafter. Although not raised in the brief, White now believes he may well be able to amend the complaint to properly allege a non-retaliation-based Title IX claim. In March 1997, White did not realize that the University itself was encouraging conduct towards White that would embarrass him regarding sex in order to prevent him from investigating the conspiracy because the true nature of the conspiracy was fraudulently concealed from White. Therefore, these sex discrimination claims, although more than a year old, are arguably not time-barred since White reasonably did not believe he could have any claim until knowing the University was responsible. Furthermore, White now realizes he could amend the complaint to also allege disability discrimination claims against the Regents.

10. Public Disclosure of Private Facts Claim Provides Adequate Notice

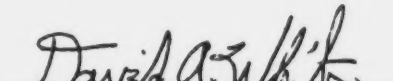
With respect to the public disclosure of private facts claim, the claim was adequate to provide the defendants with notice. To the extent the claim lacked details, it should only have been dismissed without prejudice.

VI. Conclusion

The petition for a writ of certiorari should be granted.

Respectfully submitted.

Dated: March 8, 2000



David A. White
Petitioner, Pro Se

(2) Supreme Court, U.S.
FILED
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CLERK

No. _____

In the
Supreme Court of the United States

DAVID A. WHITE, *Petitioner*,

v.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, ET AL., *Respondents*

ON PETITION FOR WRIT OF CERTIORARI
TO THE NINTH CIRCUIT COURT OF APPEALS

APPENDIX TO THE PETITION FOR WRIT OF CERTIORARI

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17 pp

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APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 98-56684
D.C. No. CV-98-00468-IEG

DAVID A. WHITE,
Plaintiff-Appellant,

v.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, SAN DIEGO; RAMESH JAIN, an individual; RICHARD ATTIYEH, an individual; STEPHANIE M. MARTINEZ, an individual; TOMMY L. MORRIS, an individual; CHRISTINE URBINA, an individual; MARIANA H. WHITE, an individual; JOHN L. OTIS, an individual; VISTA HILL FOUNDATION; RICHARD C. ATKINSON, an individual; ROBERT DYNES, an individual; TE C. HU, an individual; S. GILL WILLIAMSON, an individual; ROBERT L. JONES, an individual,
Defendants-Appellees

MEMORANDUM[1]
NOT FOR PUBLICATION

Appeal from the United States District Court
For the Southern District of California
Irma E. Gonzalez, District Judge, Presiding

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[1] This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as may be provided by 9th Cir. R. 36-3.

[FILED August 17, 1999]
Submitted August 10, 1999[2]

Before: BROWNING, SCHROEDER, and PREGERSON, Circuit Judges.

David A. White appeals pro se the district court's dismissal for failure to state a claim under Fed. R. Civ. P. 12(b)(6) of his action alleging conspiracy to commit admissions fraud and conceal a murder, conspiracy to intentionally inflict emotional distress, conspiracy to violate his constitutional rights under 42 U.S.C. § 1983, conspiracy to publically disclose private facts, and Title IX sex discrimination under 20 U.S.C. § 1681. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo dismissals pursuant to Fed. R. Civ. P. 12(b)(6), *see Steckman v. Hart Brewing, Inc.*, 143 F.3d 1293, 1295 (9th Cir. 1998), for abuse of discretion a district court's discovery rulings, *see Alaska Cargo Transp., Inc. v. Alaska R.R. Corp.*, 5 F.3d 378, 383 (9th Cir. 1993), and for abuse of discretion denials of motions to amend the judgment under Fed. R. Civ. P. 59(e), *see School Dist. No. 1J, Multnomah County, Or. v. ACandS, Inc.*, 5 F.3d 1255 (9th Cir. 1993). We affirm.

The district court properly dismissed the claims for damages against the Regents and any of its employees acting in their official capacities because as state officials, they are entitled to Eleventh Amendment immunity. *See Doe v. Lawrence Livermore Nat'l Lab.*, 131 F.3d 836, 839 (9th Cir. 1997).

The district court properly dismissed White's conspiracy claims because he failed to adequately allege any underlying cause of action. *See Entertainment Research Group, Inc. v.*

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[2] The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Genesis Creative Group, Inc., 122 F.3d 1211, 1228 (9th Cir. 1997) (stating under California Law, conspiracy is not an independent tort), *cert. denied by* 118 S. Ct. 1302 (1998). Because White failed to allege with particularity "the time, place and specific content of the false representations," the district court properly dismissed his fraud claims. *Miscellaneous Serv. Workers, Drivers, & Helpers, Teamsters Local #427 v. Philco-Ford, Corp.*, 661 F.2d 776, 782 (9th Cir. 1981). To the extent that White alleges that certain defendants misrepresented the suicide of James Casey, he failed to allege with sufficient particularity that the death was not a suicide and that the defendants knowingly communicated false information in that regard. *See Lazar v. Superior Court*, 820 P.2d 181, 984-85 (Cal. 1996).

The district court also properly dismissed White's claim for intentional infliction of emotional distress because White did not allege with sufficient particularity extreme and outrageous conduct by any of the defendants. *See Christensen v. Superior Court*, 820 P.2d 181, 202 (Cal. 1991). The district court properly found that White's unsupported assertion that Jain "sabotaged" his graduate school admissions is not sufficiently particular to state a claim for intentional infliction of emotional distress.

The district court properly dismissed his claims under 42 U.S.C. § 1983. *See Woodrum v. Woodward County*, 866 F.2d 1121, 1126 (9th Cir. 1989). White did not allege an actual injury for purposes of his access to the courts claim, *see Lewis v. Casey*, 518 U.S. 343, 349 (1996), or retaliatory conduct perpetrated by the defendants for purposes of his First Amendment retaliation claim, *see Nunez v. City of Los Angeles*, 147 F3d 867, 874-75 (9th Cir. 1998) (finding harsh words are insufficient for retaliatory conduct).

The district court also properly dismissed White's claim for public disclosure of private facts because he failed to allege specific private facts made public, and who disclosed them. *See Forsher v. Bugliosi*, 608 P.2d 716, 725 (Cal. 1980). Because White failed to allege that the alleged

retaliation was based in any way on gender, the district court properly dismissed his Title IX claim. *See Cannon v. University of Chicago*, 441 U.S. 677, 694 (1979).

The district court did not abuse its discretion in staying discovery pending the resolution of the motion to dismiss because discovery would not have affected its Fed. R. Civ. P. 12(b)(6) decision. *See Little v. City of Seattle*, 863 F.2d 681, 685 (9th Cir. 1988). In addition, the district court did not abuse its discretion in denying White's motion to amend the judgment because it was not required to sua sponte address whether supplemental jurisdiction should be declined under 28 U.S.C. § 1367(c). *See Acri v. Varian Assocs., Inc.*, 114 F.3d 999, 1000 (9th Cir. 1997) (en banc).[3]

AFFIRMED.

[3] We deny White's remaining contentions because they lack merit.

APPENDIX B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

CASE NO. 98-0468-IEG (RBB)

DAVID A. WHITE,
Plaintiff,

vs.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, SAN DIEGO; RICHARD ATTIYEH, an individual; RAMESH JAIN, an individual; RICHARD ATKINSON, an individual; ROBERT DYNES, an individual; TE C. HU, an individual; S. GILL WILLIAMSON, an individual; ROBERT L. JONES; STEPHANIE M. MARTINEZ, an individual; TOMMY L. MORRIS, an individual; CHRISTINE URBINA, an individual; MARIANA WHITE, an individual; JOHN L. OTIS, an individual; VISTA HILL FOUNDATION, and DOES 1 through 40,
Defendants

[FILED: Sep. 21, 1998, By /s/ Gobb Deputy, Doc # 121]

ORDER GRANTING MOTION TO DISMISS OF DEFENDANTS REGENTS, ATKINSON, ATTIYEH, AND DYNES; GRANTING MOTION TO DISMISS OF DEFENDANTS JAIN, MARTINEZ, MORRIS, URBINA, HU, WILLIAMSON, AND JONES; GRANTING MOTION TO DISMISS OF DEFENDANTS VISTA HILL AND

JOHN OTIS; DENYING DEFENDANT VISTA HILL'S MOTION TO STRIKE [Doc. # 86, 87, 93, 98]

On June 9, 1998, the Court issued an order granting defendants' motions to dismiss plaintiff's original complaint.[1] In response, on July 24, 1998, plaintiff filed an amended complaint adding new theories, defendants, and conspiratorial allegations. However, for the reasons set forth below, the amended complaint still fails to state a claim and, therefore, is **DISMISSED with prejudice** in its entirety.

BACKGROUND

In his amended complaint, plaintiff alleges that defendants collectively engaged in a massive conspiracy to ensure plaintiff be denied admission to several top graduate programs in Computer Science Engineering ('CSE"). According to the complaint, at the close of plaintiff's undergraduate career at the University of Michigan, where plaintiff studied under the guidance of defendant Jain, he applied for admission to numerous graduate programs throughout the United States. As plaintiff was a top student at Michigan, he expected to be admitted into some of the elite CSE programs. However, plaintiff alleges that, when Jain left Michigan to join the faculty at UCSD, Jain initiated a conspiracy to guarantee that plaintiff's applications for programs at other graduates schools be rejected so that plaintiff would be forced to pursue his studies at UCSD where Jain could employ plaintiff and take advantage of his engineering talents. Plaintiff further alleges that the entire Admissions Committee participated in this fraud and that, over time, everyone at UCSD learned of the admissions

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[1] On June 3, 1998, the Court issued an order granting defendants' motion to dismiss. However, due to two potential ambiguities in that ruling, the Court issued an amended order on June 9, 1998 to clarify the June 3, 1998 decision.

fraud.[2] Plaintiff also alleged that, in order to ensure that no one informed plaintiff of the original admissions fraud, defendants participated in another conspiracy to fake the death of one of plaintiff's classmates, Jeff Casey.[3] According to the amended complaint, defendants orchestrate a fake suicide with the knowledge of everyone at UCSD, except plaintiff, so that all of these individuals would be dissuaded from revealing the truth about the admissions fraud to plaintiff. Plaintiff alleges that, by exposing everyone else in the UCSD community to the faked suicide, defendants intended to make these other people "partners in crime." FAC, ¶ 51.

Plaintiff then reiterates the allegations previously set forth in the original complaint. Plaintiff alleges that, on March 31, 1995, members of the Help Desk at the CSE Department's computer lab conspired to access plaintiff's private computer files and expose those files to the faculty and staff in the CSE department and embarrass plaintiff. In particular, plaintiff alleges that these Help Desk employees disclosed information from a profile plaintiff prepared for a dating service. Plaintiff further alleges that (a) defendants knew the disclosure of plaintiff's computer files gave rise to a legal claim for invasion of privacy; (b) defendants did not want plaintiff to pursue such a claim; and, (c) therefore, defendants conspired to prevent plaintiff from filing a lawsuit by

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[2] Although plaintiff does not specify a time for the commencement of this conspiracy, the Court notes that plaintiff alleges he was a student at UCSD from September 1993 to March of 1997. Therefore, the admissions fraud would have had to occur at some time prior to his September 1993 start at UCSD.

[3] This allegation is in direct conflict with the original complaint in which plaintiff alleged that, although the Medical Examiner determined that Casey's death was a suicide, Casey was actually murdered by UCSD officials in an effort to prevent him from telling plaintiff that working with Jain was not very satisfying. In the amended complaint, plaintiff baldly asserts that, "[p]laintiff has not yet been able to prove [Casey] is still alive, but everything points to that conclusion." First Amended Complaint ("FAC"), ¶ 1.

pressuring lawyers throughout California not to take plaintiff's case. Plaintiff alleges that eventually even his family became part of the conspiracy; for example, plaintiff alleges that his mother improperly gained admittance into plaintiff's apartment and encouraged him to see a psychiatrist not out of real concern for plaintiff's well-being, but in order to convince plaintiff to drop his lawsuit against UCSD. Plaintiff alleges that defendants orchestrated a massive campaign of surveillance to harass plaintiff and dissuade him from exposing these numerous conspiracies.[4] In furtherance of that objective, plaintiff alleges that defendants took drastic measures culminating in plaintiff's involuntary commitment from March 5, 1997 to March 11, 1997.

Based on these allegations, plaintiff is suing (a) the Regents of the University of California, San Diego; (b) Ramesh Jain, a CSE professor at UCSD; (c) Richard Atkinson, the President of the University of California; (d) Robert Dynes, the Chancellor of UCSD; (e) Richard Attiyeh, the Dean of Graduate Studies at UCSD; (f) Stephanie Martinez, a campus police officer; (g) Tommy Morris, a campus police officer; (h) Te C. Hu, a CSE professor and former Chair of the graduate admissions committee during 1992-93; (I) S. Gill Williamson, Chairman of the CSE Department; (j) Robert Jones, a campus detective; (k) Christine Urbina, a graduate student housing manager; (l) Mariana White, plaintiff's mother; (m) John Otis, the psychiatrist who supervised plaintiff's commitment; and, (n) Vista Hill Foundation, the institution where plaintiff was detained in early March of 1997.[5] Plaintiff alleges the

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[4] In fact, plaintiff alleges that "[t]he conspiracy has continued for so long, and knowledge of it has been so widespread, that a movie apparently based on plaintiff's situation entitled 'The Truman Show' was made and released before plaintiff was even fully aware of his plight." FAC, ¶ 4.

[5] The Court notes that plaintiff's amended complaint adds the following five individual defendants: (a) Atkinson; (b) Dynes; (c) Hu; (d) Williamson; and, (e) Jones.

following six causes of action in this amended complaint: (1) Conspiracy to Commit Fraud, Re: Plaintiff's Admission and the Faked Suicide of Jeff Casey; (2) Conspiracy to Intentionally Inflict Emotional Distress; (3) Conspiracy under § 1983 to Violate Plaintiff's First and Fourth Amendment Rights; (4) Conspiracy to Invade Plaintiff's Privacy; (5) Sex Discrimination in Violation of Title IX; and, (6) Injunctive Relief Under Cal. Civ. Proc. § 527.6. Plaintiff seeks (a) an injunction pursuant to § 527.6 of the California Code of Civil Procedure; (b) general and special damages; (c) punitive damages; (d) prejudgment interest; and (e) costs of the suit.

Based on this complaint, defendants filed the three sets of motions which are currently before the Court. Defendants Regents, Attiyeh, Dynes and Atkinson filed a motion to dismiss plaintiff's claims under Rules 12(b)(1) and (b)(6) of the Federal Rules of Civil Procedure. Defendants Jain, Martinez, Morris, Urbina, Hu, Williamson and Jones filed a separate motion to dismiss under 12(b)(6) or, in the alternative, a motion to strike under Rule 12(f). Defendant Otis joined in Vista Hill's motions. The Court now turns to a consideration of defendants' motions by reviewing plaintiff's complaint claim-by-claim.

DISCUSSION

A. Legal Standards for the Motions to Dismiss[6]

1. Motion to Dismiss Under 12(b)(1)

A motion to dismiss for lack of subject matter jurisdiction may either attack the allegations of the complaint or may attack the existence of subject matter jurisdiction in fact. Thornhill Publishing Co. v. General Tel. & Elect., 594 F.2d 730 (9th Cir. 1979); see also Fed. R. Civ. P. 12(b)(1). "Unlike a Rule 12(b)(6) motion, a Rule 12(b)(1) motion can attack the substance of a complaint's jurisdictional

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[6] As the Court reviews plaintiff's complaint by cause of action and both Rules 12(b)(1) and 12(b)(6) apply to some of the claims, the Court deems it appropriate to set forth the standards for these Rules at the outset.

allegations despite their formal sufficiency, and in doing so rely on affidavits or any other evidence properly before the court." St. Clair v. City of Chico, 880 F.2d 199, 201 (9th Cir. 1989), cert. denied 493 U.S. 993 (1989). Thus, the existence of disputed material facts will not preclude the trial court from evaluating for itself the merits of jurisdictional claims. Id. Finally, because plaintiff bears the burden of establishing subject matter jurisdiction, no presumption of truthfulness attaches to the allegations of plaintiff's complaint and the Court must presume it lacks jurisdiction until plaintiff establishes jurisdiction. Stock West, Inc. v. Confederated Tribes, 873 F.2d 1221, 1225 (9th Cir. 1989).

2. Motion to Dismiss Under 12(b)(1)

When ruling on a motion to dismiss, the court must accept all material allegations of fact in the complaint as true and construe those allegations in the light most favorable to the nonmovant. North Star Intern. v. Arizona Corp. Com'n, 720 F.2d 578, 581 (9th Cir. 1983). Unless it appears beyond a doubt that the plaintiff can prove no set of facts in support of his claims that would entitle him to relief, a complaint cannot be dismissed for failure to state a claim. Conley v. Gibson, 355 U.S. 41, 45-46 (1957). The pleadings need not allege facts constituting the claim for relief or defense, but only must give fair notice of the pleader's claim or defense so that opposing parties can respond, undertake discovery, and prepare for trial. Id. Rule 12(b)(6) dismissal for failure to state a claim is proper "only if it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations" in the complaint. Hishon v. King & Spaulding, 467 U.S. 69, 73 (1984). The court looks not at whether the plaintiff will "ultimately prevail but whether the claimant is entitled to offer evidence to support the claims." Sheuer v. Rhodes, 416 U.S. 232, 236 (1974).

Where plaintiff appears in propria persona in a civil rights case, the court must construe the pleadings liberally and afford plaintiff any benefit of the doubt. Karim-Panahi v. Los Angeles Police Dept., 839 F.2d 621, 623 (9th Cir. 1988).

In liberally interpreting a pro se civil rights complaint, however, the court may not supply essential elements of a claim that were not initially pleaded. "Vague and conclusory allegations of official participation in civil rights violations are not sufficient to withstand a motion to dismiss." Ivey v. Board of Regents of University of Alaska, 673 F.2d 266, 268 (9th Cir. 1982). Nevertheless, the court must give a pro se litigant leave to amend his complaint unless it is "absolutely clear that the deficiencies of the complaint could not be cured by amendment." Noll v. Carlson, 809 F.2d 1446, 1447 (9th Cir. 1987). Thus, before the court may dismiss a pro se civil rights complaint, it must provide the plaintiff with a statement of the complaint's deficiencies. Karim-Panahi, 893 F.2d at 623-24.

B. Analysis

1. Plaintiff's First Cause of Action: Conspiracy to Commit Admissions Fraud

Plaintiff alleges that defendants Jain, Atkinson, Dynes, Attiyeh, Hu, Williamson, Jones, and White conspired to fraudulently prevent plaintiff from gaining admission to other graduate schools. Plaintiff further alleges that, in an effort to conceal this fraud, these defendants arranged for the fake suicide of Jeff Casey. To allege a conspiracy claim, plaintiff must allege (a) the formation and operation of a conspiracy; (b) wrongful acts done in furtherance of a common design; and, (c) the resulting damage. Applied Equipment Corp. v. Litton Saudi Arabia Ltd., 7 Cal.4th 503, 511 (1994). Furthermore, as civil conspiracy is not an independent tort, the underlying allegations with respect to these defendants must amount to an independent tort. With respect to this cause of action, plaintiff alleges fraud. "The elements of fraud, which give rise to the tort action for deceit, are (a) misrepresentation (false representation, concealment, or nondisclosure); (b) knowledge of falsity (or "scienter"); (c) intent to defraud, i.e., to induce reliance; (d) justifiable reliance; and (e) resulting damage." Lazar v. Superior Court, 12 Cal.4th 631, 638 (1996). Therefore, plaintiff's allegations

must satisfy both the pleading standards for conspiracy and fraud.

a. Atkinson, Dynes and Attiyeh[7]

The Court finds that plaintiff's amended complaint fails to set forth sufficient allegations to implicate Atkinson, Dynes, and Attiyeh in the formation of the conspiracy. With respect to Atkinson, the former UCSD Chancellor and current President of the University of California, makes the following conclusory allegation: "Atkinson conspired with others on the campus to fake the suicide of Jeffrey Casey in order to cover-up the admissions fraud involving Ramesh Jain and the CSE department and later conspired with others to cover-up everything else as Chancellor of UCSD and later as UC President." FAC, ¶ 66. However, plaintiff fails to substantiate this assertion with specific allegations concerning when and with whom he formed this conspiracy and what acts he took in furtherance of it. Aside from his sweeping assertion, plaintiff fails to allege the manner of Atkinson's connection to any conspiracy. Moreover, plaintiff's allegations are devoid of any reference to Atkinson's participation in any conduct amounting to fraud. For example, plaintiff does not allege that Atkinson knew of or participated in any false representation of any material fact with the intent to deceive plaintiff. Plaintiff's complaint bears a similar defect with respect to Dynes. Plaintiff merely alleges that, as the UCSD Chancellor since 1995, Dynes would have a motive to protect the reputation of UCSD and

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[7] The Court notes at the outset that the Eleventh Amendment bars plaintiff's claims for damages against the Regents and any of its employees acting in their official capacities in federal court. Pennhurst State School & Hosp. v. Halderman, 465 U.S. 89, 98-101 (1984). This bars plaintiff's claims for damages against (a) the Regents on plaintiff's invasion of privacy claim and (b) all of the individual employee defendants in their official capacity. Moreover, to the extent plaintiff is suing the individual defendants in their individual capacities, plaintiff must allege facts to indicate how they were acting outside their official duties.

his superiors within the University of California system. However, that assertion alone is not enough to adequately allege Dynes involvement in the conspiracy. Given the absence of allegations concerning Dynes' involvement in the conspiracy, the Court finds that plaintiff has failed to properly allege Dynes' participation in it. Finally, the Court notes that plaintiff's allegations concerning Attiyeh's involvement are similarly inadequate. Plaintiff merely claims that "[b]y reason of his position and authority...Attiyeh must have acted, to some extent, as a co-conspirator on behalf of defendant UC Regents with regards to the wrongful activity." FAC, ¶ 28. Such a conclusory allegation is insufficient to allege Attiyeh's role in the conspiracy. Moreover, the Court notes that, in its June 9, 1998 order on defendants' motion to dismiss plaintiff's original complaint, it set forth the appropriate pleading standards for conspiracy. Therefore, the Court is unwilling to excuse these defects on a second complaint.

b. Jain, Hu, Williamson, and Jones

Plaintiff's allegations are similarly insufficient to demonstrate the participation of Jain, Hu, Williamson and Jones in the conspiracy to commit admissions fraud. Although plaintiff sets forth numerous allegations concerning Jain's conduct and deceit in sabotaging plaintiff's chances for admission to other graduate schools, plaintiff fails to allege how Jain's individual conduct contributed to the formation and operation of a conspiracy. For example, plaintiff fails to allege that Jain ever met with or spoke to any of his alleged co-conspirators. In addition, plaintiff fails to allege how these wrongful acts were done in furtherance of a common design. Moreover, plaintiff fails to allege the elements of a fraud claim. With respect to Hu, the chair of the graduate admissions committee in 1992-93, plaintiff alleges that he intentionally withheld information from plaintiff concerning his admission. However, plaintiff fails to allege how and when Hu became involved in the alleged conspiracy. Furthermore, plaintiff fails to allege what information Hu

withheld from him and how that information furthered the conspiracy and/or amounted to fraud. In addition, it appears that any actions taken by Hu back in 1992 would be barred by the three year statute of limitations with respect to fraud claims. With respect to Williamson, plaintiff alleges that, as the chairman of the CSE Department, he was involved in the conspiracy to cover-up Casey's faked suicide because "he stated at the meeting that he did not understand why anyone would commit suicide." FAC, ¶ 65. However, this allegation is insufficient to establish Williamson's participation in either the formation or operation of the conspiracy.[8] With respect to Jones, a UCSD detective, plaintiff's allegations are similarly inadequate. Plaintiff merely alleges that Jones made false statements to the medical examiner concerning Jeff Casey's death. However, plaintiff fails to allege (a) how those statements were false (other than to allege that Casey's death was faked); (b) how Williamson came to be part of the conspiracy. Accordingly, the Court finds that, with respect to all of these defendants, plaintiff's first cause of action is inadequately pled due to the absence of sufficient allegations of conspiracy and fraud. Accordingly, the Court GRANTS the motion to dismiss of defendants Jain, Atkinson, Dynes, Attiyeh, Hu, Williamson, and Jones with respect to this claim.

2. Plaintiff's Second Cause of Action: Conspiracy to Intentionally Inflict Emotional Distress.

In his second cause of action, plaintiff alleges that defendants Atkinson, Attiyeh. Dynes, Jain, Martinez, Morris, Urbina, Hu, Williamson, Jones, and White conspired to intentionally inflict emotional distress on plaintiff through the following actions: (a) their pursuit of the original conspiracy to perpetrate admissions fraud; (b) the exposure of plaintiff's private computer files to the UCSD population; (c) the orchestration of a massive campaign of surveillance; and, (c)

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[8] For example, plaintiff fails to allege when and with whom Williamson agreed to participate in the conspiracy.

the involuntary commitment of plaintiff without probable cause. In order to state a claim for conspiracy to intentionally inflict emotional distress, plaintiff must properly allege both conspiracy and intentional infliction of emotional distress. To adequately allege a conspiracy, plaintiff must plead facts concerning (a) the formation and operation of a conspiracy; (b) wrongful acts done in furtherance of a common design; and, (c) the resulting damage. Applied Equipment Corp. v. Litton Saudi Arabia Ltd., 7 Cal.4th 503. 511 (1994). To state a claim for intentional infliction of emotional distress, plaintiff must allege: (1) extreme and outrageous conduct by the defendant with the intention of causing, or reckless disregard of the probability of causing, emotional distress; (2) the plaintiff's suffering severe or extreme emotional distress; and (3) actual and proximate causation of the emotional distress by the defendants outrageous conduct. Christensen v. Superior Court, 54 Cal.3d 868, 903 (1991).

The Court notes several problems with this claims. First, to the extent plaintiff alleges these defendants conspired together, this claim bears the same deficiencies set forth in the preceding discussion of plaintiff's claim of conspiracy to commit admissions fraud; plaintiff does not adequately plead facts giving rise to the formation and operation of a conspiracy. Except for the allegations concerning Morris, Martinez, and Urbina, plaintiff provides no additional allegations to account for the conspiratorial participation of the other named defendants (Atkinson, Dynes, Attiyeh, Jain, Hu, Williamson and Jones) in this particular conspiracy. Plaintiff appears to rely on the general allegations which he set forth with respect to the admissions fraud conspiracy. However, these allegations are insufficient. Second, with respect to the substantive allegations of intentional infliction of emotional distress, the Court notes that this claim mirrors plaintiff's original complaint. Specifically, plaintiff alleged the same facts in that complaint to assert intentional infliction of emotional distress claims against Jain (plaintiff's seventh

cause of action) and Morris, Martinez, White, and Urbina (plaintiff's thirteenth cause of action). In the Court's June 9, 1998 order, it identified the deficiencies of those claims with respect to those defendants. See June 9, 1998 Order, pp. 13-14, 16-17. The Court finds that plaintiff has failed to correct those deficiencies in the instant complaint. Third, with respect to defendants Attiyeh, Atkinson, Dynes, Hu, Williamson, and Jones, the Court finds that plaintiff also fails to allege a substantive claim which would amount to intentional infliction of emotional distress; for example, plaintiff fails to allege particular acts of extreme and outrageous conduct on the part of these defendants. Instead, plaintiff merely makes general and conclusory allegations concerning their involvement in the conspiracy. These allegations are insufficient to allow this claim to proceed. Accordingly, the Court GRANTS the motion to dismiss of defendants Atkinson, Attiyeh, Dynes, Jain, Martinez, Morris, Urbina, Hu, Williamson, and Jones with respect to this claim.

3. Plaintiff's Third Cause of Action: Conspiracy Under § 1983 to Deprive Plaintiff of Constitutional Rights

In his third claim for relief plaintiff alleges that defendants Atkinson, Dynes, Jain, Martinez, Morris, Urbina, White, Otis and the Vista Hill Foundation conspired to deprive plaintiff of his constitutional rights under the First, Fourth, and Fourteenth Amendments based on (a) a denial of access to the courts and (b) the events leading up to and including plaintiff's involuntary commitment. "To prove conspiracy . . . under § 1983, an agreement or meeting of the minds to violate [plaintiff's] constitutional rights must be shown." Woodrum v Woodward County, Okl., 886 F.2d 1121, 1126 (9th Cir. 1989).

The Court notes that (a) this claim is merely a reassertion of the § 1983 claim which plaintiff alleged against defendants Attiyeh, Martinez, Morris, Urbina, White, Otis, and Vista Hill in the original complaint (fourth cause of action); (b) the Court dismissed that claim without prejudice; and, (c)

plaintiff has failed to correct the deficiencies identified in that order. See June 9, 1998 Order, pp. 9-11. With respect to the defendants which plaintiff has added to this claim in the instant complaint (Atkinson, Dynes, Jain, and Williamson), the Court finds that plaintiff's allegations are insufficient to state a claim for a § 1983 conspiracy. As previously noted, plaintiff must allege a meeting of the minds amongst the conspirators to violate plaintiff's constitutional rights. However, plaintiff fails to make such allegations in this complaint. For example, with respect to Atkinson and Dynes, plaintiff simply alleges that when these individuals were "acting as Chancellors of UCSD (basically the CEO's of the campus), [they] were responsible for the finding of various surveillance, monitoring, and miscellaneous harassment of plaintiff at least since the faked death in May 1994." FAC, ¶ 133. Plaintiff also alleges that Atkinson and Williamson "were responsible for implicitly or explicitly creating a policy whereby unknown Does who were employees in the CSE Department at UCSD would search or view plaintiff's computer files in furtherance of the conspiracy to cover-up the faked suicide." FAC, ¶ 135. However, plaintiff fails to allege that these defendants entered into an agreement to violate plaintiff's constitutional rights. With respect to Jain, plaintiff alleges that "They seemed to view this insidious invasion of plaintiff's privacy as a joke because his lab began doing research on 'Visual Surveillance and Monitoring' and he even named one of his new labs the 'Orwell Lab.'" FAC, ¶ 134. As these allegations are insufficient to satisfy the pleading standard for a conspiracy claim under § 1983, the Court **GRANTS** the motions to dismiss of defendants Atkinson, Dynes, Jain, Martinez, Morris, Urbina, Otis, and the Vista Hill Foundation on this claim.[9]

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[9] To the extent plaintiff bases this claim on his inadequate access to the courts, the Court notes that it already dismissed that claim with prejudice in the June 9, 1998 order. See June 9, 1998 Order, p. 14.

4. Plaintiff's Fourth Cause of Action: Conspiracy to Invade Plaintiff's Privacy

In his fourth cause of action, plaintiff alleges that all of the defendants conspired to publicly disclose private facts about him and, therefore, invade his privacy. As previously noted, civil conspiracy is not an independent tort; therefore, plaintiff's allegations must independently satisfy the pleading requirements for invasion of privacy. To adequately allege a conspiracy, plaintiff must plead facts concerning (a) the formation and operation of a conspiracy; (b) wrongful acts done in furtherance of a common design; and, (c) the resulting damage. Applied Equipment Corp. v. Litton Saudi Arabia Ltd., 7 Cal.4th 503, 511 (1994). To adequately plead a claim for public disclosure of private facts, plaintiff must allege facts which indicate there was (a) a public disclosure; (b) of private facts; (3) which would be offensive and objectionable to a reasonable person. Forsher v. Bugliosi, 26 Cal.3d 792, 808-09 (1980).

At the outset, the Court notes that plaintiff included a substantive claim for invasion of privacy in his original complaint based on allegations that defendants Regents, Attiyeh, Morris, Martinez, White, Urbina, Jain, Otis, and Vista Hill Foundation publicly disclosed private facts about plaintiff. However, the Court dismissed that claim in the June 9, 1998 Order. See June 9, 1998 Order, pp. 15-16. The Court finds that, in the amended complaint, plaintiff is merely reasserting the same conduct as the basis for the invasion of privacy claim and, therefore, the amended complaint bears the same deficiencies as those previously identified by the Court.[10] Moreover, the instant claim bears additional deficiencies which were not present in the original claim of invasion of privacy. Whereas the original claim was a substantive count for invasion of privacy, the instant claim

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[10] For example, the Court notes that plaintiff cannot assert the instant claim against the Regents because the Court does not have jurisdiction over the Regents on this claim under the Eleventh Amendment.

is premised on a conspiracy count. However, plaintiff's pleadings with respect to this conspiracy count bear the same deficiencies which the Court has identified throughout this order with respect to his allegations of conspiracy generally. Plaintiff fails to allege a conspiracy in accordance with the requirements set forth in Applied Equipment Corp. v. Litton Saudi Arabia Ltd., 7 Cal.4th 503, 511 (1994).

Aside from the general insufficiency of plaintiff's allegations of conspiracy, the Court also finds that plaintiff's invasion of privacy claim is insufficient with respect to the additional defendants: Atkinson, Dynes, Williamson, Jones, and Hu. Plaintiff provides no allegations that these defendants made any statements which are actionable, i.e. plaintiff fails to identify any statements made by these defendant, much less indicate how any statements reveal private facts which would be offensive and objectionable to a reasonable person. In opposition to the instant motions, plaintiff merely reasserts the far-fetched proposition that the movie "The Truman Show" and numerous TV shows including the X-Files, Viper, and Michael Hayes have referenced plaintiff's situation. FAC, ¶ 150. This argument is entirely unconvincing. Accordingly, the Court **GRANTS** the motions to dismiss of defendants Regents, Atkinson, Dynes, Attiyeh, Jain, Martinez, Morris, Urbina, Hu, Williamson, Jones, Otis, and the Vista Hill Foundation on this claim.

5. Plaintiff's Fifth Cause of Action: Sex Discrimination Under Title IX

In his fifth cause of action, plaintiff alleges that the Regents violated his rights under Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq..[11] Essentially, plaintiff advances two theories of liability under

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[11] Section 1681(a) provides, in pertinent part, "[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance"

Title IX. First, he alleges that the Regents discriminated against him on the basis of sex by divulging the details of his private dating service profile to members of the UCSD community. Second, plaintiff alleges that, when plaintiff began to investigate this potential sexual harassment claim, the Regents retaliated against him by (a) stymying his efforts to investigate the claim and (b) placing him under massive surveillance. However, plaintiff also alleges that the Regents' conduct was ultimately directed at ensuring that plaintiff would not be able to discover and expose the overarching conspiracy to commit admissions fraud and to fake Jeff Casey's suicide.

The Court notes several problems with plaintiff's Title IX claim. First, even assuming the truth of plaintiff's hostile environment sexual harassment claim, the conduct is time-barred under the applicable one-year statute of limitations. See Cal. Civ. Proc. Code § 340(3); Doe v. Petaluma City School Dist., 830 F.Supp 1560, 1566-67 (N.D. Cal. 1993). As plaintiff filed his original complaint on March 5, 1998, the at-issue conduct will be barred if it occurred prior to March 5, 1997. In the instant case, plaintiff alleges students teased him about his inability to obtain a date in 1996 and, ultimately, this forced him to leave school in February of 1997. Therefore, as the allegedly actionable conduct occurred prior to March 5, 1997, this claim is time-barred. Moreover, this same statute of limitations argument applies to plaintiff's retaliation claim under Title IX. Furthermore, even if defendants' retaliatory conduct is not time-barred, plaintiff still fails to state a claim. To allege a retaliation claim, plaintiff must plead that (a) he engaged in activity protected by Title IX; (b) defendants thereafter subjected him to adverse action that denied him the benefits of an educational program; and, (c) there is a causal connection between his protected activity and the adverse action, Murray v New York Univ. College of Dentistry, *57* F.3d 243, 251 (2d Cir. 1995). Here, plaintiff fails to allege that he engaged in protected activity under Title IX. Based on the preceding

discussion, the Court **GRANTS** the Regent's motion to dismiss plaintiff's claim under Title IX.

6. Injunction Under Cal. Civ. Proc. § 527.6

Plaintiff also claims that the Court should issue an injunction against defendants Atkinson and Dynes under Cal.Civ.Proc. § 527.6. Section 527.6 provides that "[a] person who has suffered harassment . . . may seek a temporary restraining order and an injunction prohibiting harassment." Cal. Civ. Proc. Code § 527.6(a). Plaintiff alleges that he is entitled to an injunction because "[a]s the UC President and UCSD Chancellor, defendants Richard Atkinson and Robert Dynes must have the authority to stop this mistreatment of plaintiff" FAC, ¶ 163. Specifically, plaintiff seeks to enjoin these defendants from allowing a coordinated campaign of surveillance to continue. However, to substantiate this claim, plaintiff merely alleges that "[e]ven while writing this complaint, [he] has heard a number of noises and observed glitches...that must have been the result of monitoring and this conspiracy to deter plaintiff from pursuing this lawsuit." FAC, ¶ 164.

To state a claim under § 527.6, plaintiff must allege that Atkinson and Dynes engaged in "a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys or harasses the person and which serves no legitimate course of conduct." Cal. Civ. Proc. Code § 527.6(b). Plaintiff's allegations that Atkinson and Dynes, by virtue of their positions, have the authority to stop the monitoring are insufficient to satisfy that requirement; for example, plaintiff fails to allege that these defendants actually participated in or orchestrated the surveillance. Accordingly, the Court **GRANTS** the Regents' motion to dismiss this claim. Moreover, to the extent this state law claim would he the only remaining claim, the Court would decline to exercise its supplemental jurisdiction under 28 USC. § 1367(c)(3).

CONCLUSION

Based on the preceding discussion, the Court **GRANTS** the motion to dismiss of the Regents, Attiyeh, Dynes, and Atkinson. The Court further **GRANTS** the motion to dismiss of Jain, Martinez, Morris, Urbina, Hu, Williamson, and Jones. The Court also **GRANTS** the motion to dismiss of Vista Hill and Otis.[12] Therefore, the Court **DISMISSES with prejudice** plaintiff's amended complaint in its entirety.[13] Accordingly, the Court **ORDERS** the Clerk of the Court to close the case file.

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[12] Although defendant White did not file a motion to dismiss, the Court notes that (a) she is only implicated in plaintiff's conspiracy claims; (b) plaintiff has failed to adequately plead a single claim of conspiracy with respect to all of the other defendants; (c) defendant White cannot conspire with herself and (d) therefore, plaintiff fails to state a claim with respect to defendant White. Accordingly, the Court *sua sponte* **DISMISSES** defendant White from this action.

[13] The Court notes that plaintiff's complaint appears to be independently subject to dismissal under 28 U.S.C. § 1915(e)(2)(B)(i) which provides that "[n]otwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that the action or appeal is frivolous or malicious." Although this statutory authorization for dismissal appears in the in forma pauperis section, the broad language of § 1915 appears to authorize dismissal of any frivolous case regardless of whether the plaintiff is proceeding in forma pauperis. Moreover, in discussing the standard for frivolousness under § 1915, the Supreme Court in Neitzke v Williams. 490 U.S. 319, 324 (1989), stated that the term "'frivolous,' when applied to a complaint, embraces not only the inarguable legal conclusion, but also the fanciful factual allegation." In the instant ease, both plaintiff's original and amended complaints are replete with such far-fetched and fanciful allegations. Accordingly, the Court finds dismissal under § 1915 appropriate in this case. See Sean Munger, Bill Clinton Bugged My Brain!: Delusional Claims in Federal Courts, 72 Tul. L.Rev. 1809, 1827-27 (1998) (arguing for the application of § 1915(e)(2) to ferret out delusional claims in order to prevent the misallocation of limited judicial resources).

IT IS SO ORDERED.

DATED: 9/18/98

/s/ Irma E. Gonzalez
IRMA E. GONZALEZ, Judge
United States District Court

cc: All Parties

APPENDIX C

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

CASE NO. 98-0468-IEG (RBB)

DAVID A. WHITE,
Plaintiff,

vs.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, SAN DIEGO; RICHARD ATTIYEH, an individual; RAMESH JAIN, an individual; STEPHANIE M. MARTINEZ, an individual; TOMMY L. MORRIS, an individual; CHRISTINE URBINA, an individual; MARIANA WHITE, an individual; JOHN L. OTIS, an individual; VISTA HILL FOUNDATION, and DOES 1 through 40,
Defendants

[FILED: June 10, 1998, By /s/ Gobb Deputy, Doc # 68]

AMENDED ORDER GRANTING DEFENDANTS' MOTION TO DISMISS; DENYING DEFENDANTS' MOTION TO STRIKE; DENYING APPEAL OF DISCOVERY ORDER [Doc. # 10, 12, 25, 37, 66]

On June 3, 1998, the Court issued an order (a) granting defendants' motion to dismiss; (b) denying defendants' motion to strike; and, (c) denying plaintiff's appeal of a discovery order. First, the Court DISMISSES with prejudice

plaintiff's seventh cause of action in its entirety. Second, the Court ORDERS that no discovery whatsoever, including discovery against defendant White and any of the dismissed defendants, shall be conducted until either (a) a viable amended complaint survives a future motion to dismiss or (b) the time for filing any such motion under the Federal Rules of Civil Procedure has passed and the defendants have answered plaintiff's amended complaint.

BACKGROUND

On March 5, 1998, plaintiff, a former Computer Science Engineering ("CSE') graduate student at University of California, San Diego ("UCSD"), filed a complaint against defendants based on their alleged misconduct in conspiring to prevent plaintiff from pursuing an invasion of privacy action against defendant Regents of the University of California, San Diego ("Regents"). In his complaint, plaintiff alleges that (a) in March and September of 1996, plaintiff created a private file on a computer at the CSE Computer Lab;[1] (b) unnamed members of the Computer Lab staff accessed these private files and divulged their contents to members of the UCSD community; (c) this disclosure embarrassed plaintiff; and, (d) plaintiff contemplated filing a lawsuit for invasion of privacy against the Regents. Plaintiff further alleges that defendants then entered into a conspiracy to prevent plaintiff from pursuing this claim based on the Regents' concern that such a lawsuit would expose other misconduct at the UCSD. In particular, plaintiff alleges that (a) he had knowledge of the Regents' cover-up of graduate student Jeff Casey's murder and (b) this information would have come to light if plaintiff pursued his invasion of privacy claim.[2] Plaintiff

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[1] Plaintiff specifically alleges that he created a private profile for an electronic dating service on those visits to the Computer Lab.

[2] Although Casey's May 6, 1994 death was officially determined to he a suicide, plaintiff alleges that Casey was murdered at the direction of UCSD officials. Plaintiff provides the following motive for Casey's murder: (a) plaintiff was a promising graduate student who planned to work for defendant professor Ramesh Jain; (b) Casey worked with Jain;

intimates that the Regent's disclosure of plaintiff's sensitive and personal computer files was designed to humiliate plaintiff and dissuade him from going to the public with this information about Casey's alleged murder.

Plaintiff alleges that defendants went to great lengths to ensure that plaintiff would not file his lawsuit. In addition to alleged visual and telephonic surveillance, plaintiff asserts that the Regents (a) conspired with lawyers throughout California to prevent them from taking plaintiff's ease and (b) successfully brought plaintiff's mother into the conspiracy. On February 25, 1997, plaintiff alleges that he returned to his University-owned apartment and found his mother, defendant Mariana White, inside the apartment.[3] At his mother's urging, plaintiff visited defendant-psychiatrist Dr. John Otis on February 27, 1997. Following several visits with defendant Otis, defendant-UCSD police officers Stephanie M. Martinez and Tommy L. Morris detained plaintiff on March 5, 1997 and transported him to Mesa Vista hospital for an involuntary commitment.[4] Plaintiff further alleges that (a) he was improperly committed for six days and (b) defendants conspired to arrange this commitment in furtherance of their conspiracy to prevent plaintiff from filing his invasion of privacy suit.

Based on these allegations, plaintiff's complaint advances the following thirteen causes of action: (1) invasion of privacy; (2) conspiracy to commit false imprisonment in violation of Cal. Welf. & Inst. Code §§ 5150, 5250, 5259; (3) conspiracy to commit trespass; (4) § 1983 conspiracy to

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(c) Casey was dissatisfied with his employment with Jain; (d) Casey was on the verge of sharing that dissatisfaction with plaintiff; (e) Jain was concerned that if plaintiff learned of Casey's discontent, plaintiff would be unwilling to work for Jain; and, (f) Jain arranged to have Casey murdered to prevent this outcome.

[3] Plaintiff alleges that defendant Urbina, a UCSD housing employee, improperly admitted defendant White into plaintiff's apartment.

[4] Mesa Vista Hospital is a business operated by defendant Vista Hill Foundation ("Vista Hill").

violate Fourth and Fourteenth Amendments; (5) conspiracy in violation of Cal. Civ. Code § 52.1(b); (6) negligent infliction of emotional distress; (7) intentional infliction of emotional distress; (8) violation of Cal. Civ. Code §§ 51, 51.5 and 52; (9) § 1983 violation based on invasion of privacy; (10) § 1983 violation based on violations of the First and Fourteenth Amendments; (11) violation of Cal. Civ. Code § 52.1(b); (12) public disclosure of private facts; and, (13) intentional infliction of emotional distress. In his prayer for relief plaintiff asks for (a) injunctive relief; (b) damages; (c) special damages; (d) punitive damages; (e) prejudgment interest; and, (f) costs of the suit.

On April 9,1998, defendant Regents and Ramesh Jain, Richard Attiyeh,[5] Stephanie M. Martinez, Tommy L. Morris, and Christina Urbina filed a motion to dismiss under Fed.R.Civ.P. Rule 12(b)(1) for lack of jurisdiction and Fed.R.Civ.P. Rule 12(b)(6) for failure to state a claim upon which relief may be granted. On April 22, 1998, defendant Vista Hill filed a motion to dismiss under Fed.R.Civ.P. Rule 12(b)(6) and, in the alternative, a motion to strike under Fed.R.Civ.P. Rule 12(f). On that same day, defendant Otis filed a notice of joinder to defendant Vista Hill's motions. In addition to addressing these motions, this order also treats plaintiff's appeal of Magistrate Judge Brooks' order staying discovery.

The Court now turns to an examination these motions by addressing them in the following order: (a) Fed.R.Civ.P. Rule 12(b)(1) motions; (b) Fed.R.Civ.P. Rule 12(b)(6) motions; (c) Fed.R.Civ.P. Rule 12(f) motions; and, (d) plaintiff's appeal of the discovery order.

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[5] According to the complaint, defendant Attiyeh is the Dean of Graduate Students at UCSD. Complaint, ¶ 7.

DISCUSSION

A. Motion to Dismiss Under Fed.R.Civ.P. Rule 12(b)(1)

1. Legal Standard Under Fed.R.Civ.P. Rule 12(b)(1)

A motion to dismiss for lack of subject matter jurisdiction may either attack the allegations of the complaint or may attack the existence of subject matter jurisdiction in fact. Thornhill Publishing Co. v. General Tel. & Elect., 594 F2d 730, 733 (9th Cir. 1979); see also Fed. R. Civ. P. 12(b)(1). "Unlike a Rule 12(b)(6) motion, a Rule 12(b)(1) motion can attack the substance of a complaint's jurisdictional allegations despite their formal sufficiency, and in doing so rely on affidavits or any other evidence properly before the court." St. Clair v. City of Chico, 880 F.2d 199, 201 (9th Cir. 1989), cert. denied 493 U.S. 993 (1989). Thus, the existence of disputed material facts will not preclude the trial court from evaluating for itself the merits of jurisdictional claims. Id. Finally, because plaintiff bears the burden of establishing subject matter jurisdiction, no presumption of truthfulness attaches to the allegations of plaintiff's complaint and the Court must presume it lacks jurisdiction until plaintiff establishes jurisdiction. Stock West Inc. v. Confederated Tribes, 873 F.2d 1221, 1225 (9th Cir. 1989).

2. Analysis

Defendant Regents correctly contend that the Eleventh Amendment bars plaintiff's claims for damages against them in federal court.[6] Pennhurst State School & Hosp v Halderman, 465 U.S. 89, 98-101 (1984). Similarly, defendants Jain, Attiyeh, Martinez, Morris and Urbina argue that plaintiff's claims against them in their official capacities as UCSD employees are also barred by the Eleventh Amendment. Moreover, plaintiff concedes this Eleventh Amendment bar. Therefore, the Court **ORDERS** that:

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[6] The Eleventh provides: "The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State."

a. Plaintiff's first cause of action for invasion of privacy against the Regents is **DISMISSED with prejudice** for lack of jurisdiction under Fed.R.Civ.P. Rule 12(b)(1). This cause of action is dismissed in its entirety.

b. Plaintiff's second cause of action for false imprisonment is **DISMISSED with prejudice** for lack of jurisdiction under Fed.R.Civ.P. Rule 12(b)(1) with respect to the Regents, Martinez and Morris.

c. Plaintiff's third cause of action for conspiracy to commit trespass is **DISMISSED with prejudice** for lack of jurisdiction under Fed.R.Civ.P. Rule 12(b)(1) with respect to the Regents and Urbina.

d. Plaintiff's fifth cause of action under Cal. Civ. Code § 52.1(b) is **DISMISSED with prejudice** for lack of jurisdiction under Fed.R.Civ.P. Rule 12(b)(1) with respect to the Regents, Attiyeh, Martinez, Morris and Urbina.

e. Plaintiff's sixth cause of action for negligent infliction of emotional distress is **DISMISSED with prejudice** for lack of jurisdiction under Fed.R.Civ.P. Rule 12(b)(1) against the Regents and Jain in his official capacity.

f. Plaintiff's seventh cause of action for intentional infliction of emotional distress is **DISMISSED with prejudice** for lack of jurisdiction under Fed.R.Civ.P. Rule 12(b)(1) against the Regents and Jain in his official capacity.

g. Plaintiff's eighth cause of action for conspiracy to deny plaintiff access to legal representation is **DISMISSED with prejudice** for lack of jurisdiction tinder Fed.R.Civ.P. Rule 12(b)(1) against the Regents. This cause of action is dismissed in its entirety.

h. Plaintiff's ninth cause of action for an alleged § 1983 violation by Attiyeh is **DISMISSED with prejudice** for lack of jurisdiction under Fed.R.Civ.P. Rule

12(b)(1). This cause of action is dismissed in its entirety.

i. Plaintiff's eleventh, twelfth and thirteenth causes of action are all **DISMISSED with prejudice** for lack of jurisdiction under Fed.R.Civ.P. Rule 12(b)(1) with respect to the Regents.

j. In sum, all claims against the Regents and university employees acting in their official capacities are **DISMISSED with prejudice** for lack of jurisdiction under Fed.R.Civ.P. Rule 12(b)(1).

B. Motion to Dismiss Under Fed.R.Civ.P. Rule 12(b)(6)

The Court now turns to an examination of the remaining claims under Fed.R.Civ.P. Rule 12(b)(6).

1. Legal Standard Under Fed.R.Civ.P. Rule 12(b)(6)

When ruling on a motion to dismiss, the court must accept all material allegations of fact in the complaint as true and construe those allegations in the light most favorable to the nonmovant. North Star Intern v Arizona Corp. Com'n, 720 F.2d 578, 581 (9th Cir. 1983). Unless it appears beyond a doubt that the plaintiff can prove no set of facts in support of his claim that would entitle him to relief, a complaint cannot be dismissed for failure to state a claim. Conley v. Gibson, 355 U.S. 41, 45-46 (1957). The pleadings need not allege facts constituting the claim for relief or defense, but only must give fair notice of the pleader's claim or defense so that opposing parties can respond, undertake discovery, and prepare for trial. Id.

Rule 12(b)(6) dismissal for failure to state a claim is proper "only if it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations" in the complaint. Hishon v King & Spaulding, 467 U.S. 69, 73 (1984). The court looks not at whether the plaintiff will "ultimately prevail but whether the claimant is entitled to offer evidence to support the claims." Scheuer v. Rhodes, 416 U.S. 232, 236 (1974).

Where a plaintiff appears *in propria persona* in a civil rights case, the court must construe the pleadings liberally

and afford plaintiff any benefit of the doubt. Karim-Panahi v. Los Angeles Police Dept., 839 F.2d 621, 623 (9th Cir. 1988). In liberally interpreting a pro se civil rights complaint, however, the court may not supply essential elements of a claim that were not initially pleaded. "Vague and conclusory allegations of official participation in civil rights violations are not sufficient to withstand a motion to dismiss." Ivey v. Board of Regents of University of Alaska, 673 F.2d 266, 268 (9th Cir. 1982). Nevertheless, the court must give a pro se litigant leave to amend his complaint unless it is "absolutely clear that the deficiencies of the complaint could not be cured by amendment." Noll v. Carlson, 809 F.2d 1446, 1447 (9th Cir. 1987). Thus, before the court may dismiss a pro se civil rights complaint, it must provide the plaintiff with a statement of the complaint's deficiencies. Karim-Panahi, 893 F.2d at 623-24.

2. Analysis

a. Plaintiff's Second Cause of Action: Conspiracy to Falsely Imprison In Violation of Cal. Welf. & Inst. Code §§ 5150, 5250(a) and (d), and 5259.1

In his second cause of action, plaintiff alleges that defendants White, Otis, and Vista Hill Foundation conspired with each other and UCSD employees to falsely imprison plaintiff at the Mesa Vista Hospital from March 5, 1997 to March 11, 1997 in violation of Cal. Welf. & Inst. Code §§ 5150,[7] 5250(a) and (d),[8] and 5259.1.[9] Essentially, plaintiff

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[7] Section 5150 provides:

When any person, as a result of mental disorder, is a danger to others, or to himself or herself or gravely disabled, a peace officer, member of the attending staff, as defined by regulation, of an evaluation facility designated by the county, designated members of a mobile crisis team provided by Section 5651.7, or other professional person designated by the county may, upon probable cause, take, or cause to be taken, the person into custody and place him or her, in a facility designated by the county and approved by

the State Department of Mental Health as a facility for 72-hour treatment and evaluation.

Such facility shall require an application in writing stating the circumstances under which the person's condition was called to the attention of the officer, member of the attending staff or professional person, and stating that the officer, member of the attending staff, or professional person has probable cause to believe that the person is, as a result of mental disorder, a danger to others, or to himself or herself, or gravely disabled. If the probable cause is based on the statement of a. person other than the officer, member of the attending staff, or professional person, such person shall be liable in a civil action for intentionally giving a statement which he or she knows to be false.

Cal. Welf. & Inst. Code § 5150.

[8] Section 5250 provides, in pertinent part:

If a person is detained for 72 hours under the provisions of Article 1 (commencing with Section 5150)...and has received an evaluation, he or she may be certified for not more than 14 days of intensive treatment related to the mental disorder...,under the following conditions:

(a) The professional staff of the agency or facility providing evaluation services has analyzed the person's condition and has found the person is, as a result of mental disorder danger to others, or to himself or herself, or gravely disabled...

(d) (l) Notwithstanding paragraph (1) of subdivision (h) of Section 5008, a person is not "gravely disabled" if that person can survive safely without involuntary detention with the help of responsible family, friends, or others who are both willing and able to help provide for the person's basic personal needs for food, clothing, or shelter.

(2) However, unless they specifically indicate in writing their willingness and ability to help, family, friends, or others shall not be considered willing or able to provide this help.

(3) The purpose of this subdivision is to avoid the necessity for, and the harmful effects of, requiring family, friends, and others to publicly state, and requiring the certification review officer to publicly find, that no one is willing or able to assist the mentally disordered person in providing for the person's basic needs for food, clothing, or shelter.

[9] Section 5259.1 provides that "[a]ny individual who is knowingly and willfully responsible for detaining a person in violation of the provisions of this article is liable to that person in civil damages."

contends that (a) defendants Otis, White and UCSD employees acted in concert to involuntarily commit plaintiff without probable cause under § 5150 and (b) defendants Otis and Vista Hill improperly extended plaintiff's commitment in violation of § 5250(a) and (d).

In the instant motion to dismiss, defendants Otis and Vista Hill contend that plaintiff fails to state a claim for conspiracy based on two reasons. First, Otis and Vista Hill note that to allege a conspiracy claim, a plaintiff must allege (1) the formation and operation of a conspiracy; (2) wrongful acts done in furtherance of a common design; and, (3) the resulting damage. Applied Equipment Corp. v. Litton Saudi Arabia Ltd., 7 Cal.4th 503, 511 (1994). These defendants argue that plaintiff's complaint is devoid of any factual allegations which demonstrate that defendants communicated with one another to form a conspiracy to improperly commit plaintiff.

Second, Otis and Vista Hill argue that (a) to state a claim for civil conspiracy, the underlying allegations of wrongdoing must amount to an independent tort and (b) plaintiff's complaint fails to sufficiently allege such wrongdoing. Specifically, Otis and Vista Hill note that to state a claim for false imprisonment, plaintiff must allege that (a) he was intentionally confined; (b) against his will; (c) without lawful privilege; (d) for an appreciable length of time. Fermino v Fedco Inc., 7 Cal.4th 701, 715 (1994). According to these defendants, plaintiff fails to allege that his confinement was made without lawful privilege under either § 5150 or § 5250 (a) or (d).

In opposition, plaintiff argues that he adequately pleads this conspiracy count because he alleges facts sufficient to support an inference of a conspiratorial agreement. Plaintiff cites to both Schessler v. Keck, 125 Cal.App2d 827 (1954) and Ramey v Gen. Petroleum Corp, 173 Cal.App.2d 386 (1959) for the proposition that "where a conspiracy is involved, . . . courts recognize that because of the clandestine nature of the scheme or undertaking engaged in, its existence

must often be inferentially and circumstantially derived from the character of the acts done, the relations of the parties and other facts and circumstances suggestive of concerted action." Schessler, 125 Cal.App.2d at 833. Plaintiff argues that further support for his position is found in Bretz v. Kelman, 773 F.2d 1026 (9th Cir. 1985) and Cline v. Brosset, 661 F.2d 108 (9th Cir. 1981).

The Court finds that plaintiff fails to properly allege facts supporting the formation of conspiracy with respect to defendants Vista Hill and Otis. For example, plaintiff's complaint fails to allege that (a) specific officials at Vista Hill were involved in the alleged conspiracy; (b) Otis conferred with or knew any officials at Vista Hill; (c) either Otis or Vista Hill officials met with or knew any employees of the Regents; and, (d) Otis and the Vista Hill officials agreed to involuntarily commit plaintiff in the absence of probable cause for such a commitment. The only allegation linking defendants White, Otis and Vista Hill to a conspiracy is plaintiff's conclusory assertion that these parties were all acting in concert with the Regents to prevent plaintiff from filing a lawsuit. However, plaintiff's complaint is devoid of any factual allegations which would support this assertion--plaintiff fails to allege facts which demonstrate that Otis or Vista Hill either knew of or endorsed the Regents' alleged improper motive.[10] Plaintiff fails to allege that either Otis or Vista Hill even had knowledge of plaintiff's desire to file a. lawsuit. Moreover, plaintiff's complaint fails to allege facts sufficient to support an inference that these parties would have a reason for joining such a conspiracy. The mere fact that plaintiff alleges a conspiracy does not in and of itself provide the basis for the claim in the absence of other "circumstances suggestive of concerted action." Schessler, 125 Cal.App.2d at 833. Accordingly, defendants Otis and Vista Hill's motion to dismiss plaintiff's second cause of

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[10] Plaintiff fails to identify a time and place where Otis and Vista Hill employees met with other alleged co-conspirators to agree to a plan.

action is **GRANTED**. The second cause of action is hereby **DISMISSED without prejudice**.[11]

b. Plaintiff's Fourth Cause of Action: Conspiracy Under § 1983 to Deprive Plaintiff of Fourth and Fourteenth Amendment Rights

In his fourth cause of action, plaintiff claims that defendants Attiyeh, Martinez, Morris, Urbina, White, Otis and Vista Hill conspired together and with the Regents to deprive plaintiff of his Fourth and Fourteenth Amendment rights by (a) providing defendant White with access to plaintiff's apartment and (b) arranging plaintiff's involuntary commitment.

i. Plaintiff's Claim Against Otis and Vista Hill

Defendants Otis and Vista Hill argue that plaintiff fails to alleges facts sufficient to support a claim of conspiracy under § 1983. "To prove conspiracy . . . under § 1983, an agreement or meeting of the minds to violate [plaintiff's] constitutional rights must be shown." Woodrum v. Woodward County Okl., 886 F.2d 1121, 1126 (9th Cir. 1989). As plaintiff is challenging the same conduct by Otis and Vista Hill in this cause of action (improperly committing plaintiff) as in the second cause of action, dismissal is warranted based on the reasons identified for dismissal of that claim. See Discussion, section B(2)(a). Plaintiff fails to allege facts sufficient to support an inference that Otis and Vista Hill entered into an agreement with the other defendants to violate plaintiff's constitutional rights. Accordingly, defendants Otis and Vista Hill's motion to

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[11] The Court rejects Vista Hill's alternative argument that plaintiff's conspiracy claim would fail based on insufficient allegations of false imprisonment. Vista Hill contends that plaintiff's claim would fail because Vista Hill's actions were privileged. However, such an argument assumes that probable cause to involuntarily detain plaintiff existed. Plaintiff alleges that he was detained without probable cause. Therefore, whether such probable cause existed is a factual issue not properly resolved at this stage of the proceedings.

dismiss plaintiff's fourth cause of action is **GRANTED**. Plaintiff's fourth cause of action with respect to Otis and Vista Hill is hereby **DISMISSED without prejudice**.

ii. Plaintiff's Claim Against Attiyeh, Martinez, Morris, and Urbina

With respect to these individual capacity claims against these UCSD employees, the Court will analyze each defendant's motion separately. In the complaint, plaintiff makes only the following allegation against Attiyeh, the Dean of Students at UCSD: "Attiyeh must have acted, to some extent, as a co-conspirator on behalf of defendant UC Regents with regards to the wrongful activity." Complaint, ¶ 17. This conclusory allegation without any additional factual support linking Attiyeh to the alleged conspiracy is insufficient to support an inference that Attiyeh was pan of the § 1983 conspiracy. Plaintiff must allege facts to support an inference that Attiyeh knew about and actively participated in the conspiracy, i.e. that plaintiff had a "meeting of the minds" with the other defendants and together they agreed to violate plaintiff's constitutional rights.[12] See Woodrum, 886 F.2d at 1126.

Plaintiff further alleges that on March 5, 1997, defendants Morris and Martinez participated in the conspiracy by arresting plaintiff and transporting him to Mesa Vista Hospital in violation of his Fourth Amendment rights. Defendants contend, however, that this allegation alone is not sufficient to implicate Morris and Martinez in the conspiracy. The Court agrees. As the Woodrum court noted, plaintiff must allege facts to demonstrate an agreement to violate plaintiff's constitutional rights. Plaintiff fails to allege that any facts which indicate that Morris and Martinez entered into an agreement with the other defendants to deny plaintiff his constitutional rights.

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[12] For example, plaintiff does not identify when and with whom Attiyeh conspired.

Plaintiff also alleges that Urbina engaged in the conspiracy under § 1983 to violate plaintiff's Fourth Amendment rights by providing plaintiff's mother, defendant White, with a key to his apartment. In the instant motion, Urbina argues for dismissal of this claim based on plaintiff's failure to allege facts sufficient to support a conspiracy claim. The Court agrees that plaintiff fails to plead specific facts which demonstrate Urbina's participation in a conspiracy. Woodrum v Woodward County, Okl., 886 F.2d 1121,1126 (9th Cir. 1989). Plaintiff fails to allege facts which indicate with whom Urbina conspired. Plaintiff fails to even allege that Urbina knew that plaintiff's mother was not welcome at his apartment. Plaintiff's conclusory allegations that Urbina conspired with the others cannot survive the instant motion. See Ivey v Board of Regents of University of Alaska, 673 F.2d 266, 268 (9th Cir. 1982) (finding conclusory allegations insufficient to withstand a motion to dismiss).

Based on the aforementioned discussion, defendants Attiyeh,[13] Morris, Martinez and Urbina's motion to dismiss plaintiff's fourth cause of action is **GRANTED**. Plaintiff's fourth cause of action is **DISMISSED without prejudice.**

c. Plaintiff's Fifth Cause of Action: Conspiracy in Violation of the Bane Act

In his fifth cause of action, plaintiff alleges that defendants White, Otis and Vista Hill conspired with the Regents and other UCSD officials to improperly detain plaintiff at Mesa Vista Hospital in order to prevent him from pursuing his invasion of privacy suit against the Regents. Plaintiff further alleges that (a) defendants pursued this course of action based on plaintiff's political viewpoint and (b) this conspiracy violated his rights under the Bane Act, Cal. Civil Code § 52.1. The Bane Act is an anti-hate crime

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[13] Based on the lack of factual allegations directed at Attiyeh, the Court hereby **DISMISSES** all of plaintiff's claims against Attiyeh. Accordingly, plaintiff's fourth, tenth, eleventh, twelfth and thirteenth claims are hereby **DISMISSED** with respect to Attiyeh.

ordinance which provides an individual with a private cause of action "[w]henever a person or persons, whether or not acting under color of law, interferes by threats, intimidation, or coercion, or attempts to interfere by threats, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state." Cal. Civil Code § 52.1. In order to state a claim under the Act, a plaintiff must allege that the interference was due to his or her "race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, disability, or position in a labor dispute." See Cal. Civil Code § 51.7; Boccato v City of Hermosa Beach, 29 Cal.App.4th 1797, 1809 (1994).

The Court notes two problems with plaintiff's claim under the Bane Act. First, plaintiff's allegations of conspiracy on this claim are identical to those which the Court determined to he insufficient in his second cause of action for conspiracy to falsely imprison plaintiff Essentially, plaintiff alleges in both claims that defendants Otis and Vista Hill conspired with others to improperly commit him involuntarily in the absence of probable cause. However, in order to plead a conspiracy claim, plaintiff must allege (1) the formation and operation of a conspiracy; (2) wrongful acts done in furtherance of a common design; and, (3) the resulting damage. Applied Equipment Corp v. Litton Saudi Arabia Ltd., 7 Cal.4th 503, 511 (1994). For the reasons discussed in section B(2)(a) of this discussion, the Court finds that plaintiff has failed to adequately allege a conspiracy claim on this alleged Bane Act violation.

Second, plaintiff fails to plead facts indicating that befalls within a protected class under the Act. Plaintiff alleges that he is being targeted for this discrimination because of his knowledge of wrongdoing at UCSD and this amounts to improper discrimination based on his "political viewpoint." Based on that allegation, plaintiff attempts to secure protection under the Act. However, plaintiff's knowledge of

alleged wrongdoing at UCSD fails to amount to a "political viewpoint" akin to political affiliation which is afforded protection under the Act. Moreover, plaintiff fails to allege any factual basis for his belief--he does not allege facts winch demonstrate that officials at UCSD or any other defendant knew of plaintiff's political viewpoint. Furthermore, plaintiff fails to provide any case law to support plaintiff's theory that the Bane Act covers the conduct alleged by plaintiff in his complaint. Therefore, even if plaintiff adequately alleged a conspiracy, the Court would find plaintiff outside the Act's coverage. Accordingly, defendant Otis and Vista Hill's motion to dismiss plaintiff's fifth cause of action is **GRANTED**. Plaintiff's fifth cause of action is hereby **DISMISSED with prejudice**.

d. Plaintiff's Sixth Cause of Action: Negligent Infliction of Emotional Distress

In his sixth cause of action, plaintiff alleges that defendant Jain, plaintiff's former mentor and professor at UCSD, negligently inflicted emotional distress on plaintiff by covering up the murder of fellow graduate student Jeff Casey. To state a claim for negligent infliction of emotional distress, plaintiff must allege (a) duty, (b) breach of duty, (c) causation, and (d) damages. Marlene F. v. Affiliated Psychiatric Medical Clinic Inc., 48 Cal.3d 583, 588 (1989). To state a claim for negligent infliction of emotional distress based on conduct directed at a third party, a plaintiff must allege that a duty is owed by the defendant because the plaintiff either (a) contemporaneously observed the injury or (b) was a close family member of the third party. Thing v. La Chusa, 48 Cal.3d 644, 667-68 (1989). In the instant case, plaintiff fails to allege facts which indicate Jain owed plaintiff any duty. Plaintiff does not allege that either (a) he personally witnessed the cover-up of Casey's murder or (h) he was Casey's relative. Therefore, it does not appear that plaintiff can allege any set of facts which support this cause of action. Moreover, to the extent plaintiff's claim accrued prior to March 5, 199.7 (one year before plaintiff filed the

instant suit) to support the instant claim, plaintiff's claim appears to he time-barred by the one-year statute of limitations. See Cal.Civ.Proc. Code § 340(3); Bennett v Suncloud, 56 Cal.App.4th 91, 97 (1997). Accordingly, Jain's motion to dismiss plaintiff's sixth cause of action is **GRANTED**. Plaintiff's sixth cause of action is hereby **DISMISSED with prejudice**.

e. Plaintiff's Seventh Cause of Action: Intentional Infliction of Emotional Distress

Plaintiff also alleges that Jain's cover-up of Casey's murder constituted intentional infliction of emotional distress. To state a claim for intentional infliction of emotional distress, a plaintiff must allege: (1) extreme and outrageous conduct by the defendant with the intention of causing, or reckless disregard of the probability of causing, emotional distress; (2) the plaintiff's suffering severe or extreme emotional distress; and (3) actual and proximate causation of the emotional distress by the defendants outrageous conduct. Christensen v Superior Court, 54 Cal.3d 868, 903 (1991). The California Supreme Court also stated, "[i]t is not enough that the conduct be intentional and outrageous. It must be conduct directed at the plaintiff, or occur in the presence of a plaintiff of whom the defendant is aware." Id.

The Court finds that plaintiff's allegations fail to state a claim for intentional infliction of emotional distress with respect to Jain. Plaintiff does not allege that Jain either (a) directed the cover-up at plaintiff or (b) executed the cover-up in plaintiff's presence. Moreover, plaintiff cannot allege that the cover-up was directed at him; any alleged cover-up would be directed at protecting Jain from civil and criminal liability for his alleged actions in causing Casey's death. Therefore, it does not appear that plaintiff can allege any set of facts which support this cause of action. Furthermore, to the extent plaintiff's claim accrued prior to March 5, 1997 (one year before plaintiff filed the instant suit) to support the instant claim, plaintiff's claim appears to be time-bared by the one-

year statute of limitations. See Cal.Civ.Proc. Code § 340(3); Christensen, 54 Cal.3d at 903. Accordingly, Jain's motion to dismiss plaintiff's seventh cause of action is **GRANTED**. Plaintiff's seventh cause of action is hereby **DISMISSED with prejudice**.

f. Plaintiff's Tenth Cause of Action: Denial of Access to the Courts in Violation of § 1983

In the tenth cause of action, plaintiff alleges that defendants Martinez, Morris, Urbina, White, Otis and Vista Hill engaged in a conspiracy to deprive plaintiff of his constitutional right of access to the courts by fraudulently arranging to have plaintiff involuntarily committed. Plaintiff alleges that these actions amounted to substantive violations of his constitutional right of access to the courts under § 1983.[14] In order to state an "access to the courts" claim under § 1983, plaintiff must allege actual injury, i.e. plaintiff must allege that the actions of the individual defendants prevented plaintiff from bringing his claims to court and that these actions prejudiced plaintiff's legal claims. Lewis v. Casey, 116 S.Ct. 2174, 2180 (1996). In the instant case, plaintiff's allegations that defendants engaged in a conspiracy to prevent lawyers from taking plaintiff's case is insufficient. Plaintiff has no constitutional right to counsel in this civil action. Moreover, plaintiff's underlying allegation of an abridgment of his access to the court is belied by his ability to file the instant action. Accordingly, the motions to dismiss

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[14] To the extent that plaintiff intended to advance a separate conspiracy claim with this cause of action, such a claim is also insufficient. With respect to defendants Otis and Vista Hill, the factual allegations forming the basis of this cause of action are identical to those contained in the fourth cause of action. Therefore, this conspiracy claim is subject to dismissal as to Otis and Vista Hill for the same deficiencies as those identified in section B(2)(b)(i) of this discussion. With respect to defendants Martinez, Morris and Urbina, the factual allegations forming the basis of this cause of action are also identical to those contained in the fourth cause of action. Therefore, this conspiracy claim is subject to dismissal as to Martinez, Morris and Urbina for the same deficiencies as those identified in section B(2)(b)(ii) of this discussion.

of Martinez, Morris, Urbina, Otis and Vista Hill are **GRANTED**. Plaintiff's tenth cause of action with respect to these defendants is **DISMISSED with prejudice**.

g. Plaintiff's Eleventh Cause of Action: Denial of Access to the Courts in Violation of the Bane Act

In the eleventh cause of action, plaintiff alleges that Jain, Moms, Martinez, White, Otis, and Vista Hill conspired to deprive plaintiff of his access to the courts in violation of the Bane Act by having plaintiff involuntarily committed in the absence of probable cause. The Court notes two problems with this cause of action. First, to the extent the this claim is premised on the underlying conspiracy alleged in the previous counts, it shares the deficiencies previously identified in this order, i.e. plaintiff fails to plead facts which gives rise to an inference that the various defendants agreed to deny plaintiff his substantive rights. Second, plaintiff fails to allege that he falls within the coverage of the Bane Act. Even if plaintiff properly alleged the foundational elements for a conspiracy, plaintiff fails to allege that he is subject to interference with his rights based on his "race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, disability, or position in a labor dispute." See Cal. Civil Code § 51.7; Boccato v. City of Hermosa Beach, 29 Cal.App.4th 1797, 1809 (1994). Plaintiff alleges that he is being targeted for this discrimination because of his knowledge of wrongdoing at UCSD and this amounts to improper discrimination based on his "political viewpoint." Based on that allegation, plaintiff attempts to secure protection under the Act. However, plaintiff's knowledge of alleged wrongdoing at UCSD fails to amount to a "political viewpoint" akin to political affiliation which is afforded protection wider the Act. Moreover, plaintiff fails to provide any case law to support plaintiff's theory that the Bane Act covers the conduct alleged by plaintiff in his complaint. Therefore, even if plaintiff adequately alleged a conspiracy, the Court would find plaintiff outside the Act's coverage.

Accordingly, defendants' motion to dismiss plaintiff's eleventh cause of action is **GRANTED**. Plaintiff's eleventh cause of action is hereby **DISMISSED with prejudice**.

h. Plaintiff's Twelfth Cause of Action: Invasion of Privacy

Plaintiff alleges that Morris, Martinez, White, Urbina, Jain, Otis, and Vista Hill Foundation invaded plaintiff's privacy by publicly disclosing private facts about plaintiff.[15] To adequately plead a claim for public disclosure of private facts, plaintiff must allege facts which indicate there was (a) a public disclosure; (b) of private facts; (3) which would be offensive and objectionable to a reasonable person. Forsher v. Bugliosi, 26 Cal.3d 792, 808-09 (1980). Although plaintiff makes general assertions that the defendants collectively disclosed private facts, plaintiff fails to indicate (a) how each defendant was involved in these disclosures; (b) what constituted the public disclosure; (c) when and how these disclosures occurred; and, (d) what private facts were disclosed. In the absence of allegations providing this kind of information, plaintiff's vague and conclusory allegations are insufficient to withstand a motion to dismiss. Moreover, to the extent that any cause of action for these disclosures accrued prior to March 5,1997, the action is barred by the statute of limitations. Cal.Civ.Proc.Code § 340(3). Accordingly, defendants' motions to dismiss plaintiff's twelfth cause of action are **GRANTED**. Plaintiff's twelfth cause of action is **DISMISSED without prejudice**.

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[15] In the complaint, plaintiff asserts this cause of action against "all defendants-" However as the Regents are not subject to jurisdiction under the Eleventh Amendment and the Court has previously dismissed all of the claims with respect to Attiyeh (note 13), the allegations only apply to the listed defendants.

i. Plaintiff's Thirteenth Cause of Action: intentional Infliction of Emotional Distress

In his thirteenth cause of action, plaintiff alleges that Morris, Martinez, White, Urbina, Jain,[16] Otis, arid Vista Hill Foundation intentionally caused plaintiff emotional distress by having him involuntarily committed in the absence of probable cause. To state a claim for intentional infliction of emotional distress, a plaintiff must allege: (1) extreme and outrageous conduct by the defendant with the intention of causing, or reckless disregard of the probability of causing, emotional distress; (2) the plaintiff's suffering severe or extreme emotional distress; and (3) actual and proximate causation of the emotional distress by the defendants outrageous conduct. Christensen v Superior Court, *54* Cal.3d 868, 903 (1991). The California Supreme Court also stated, "[i]t is not enough that the conduct be intentional and outrageous. It must be conduct directed at the plaintiff, or occur in the presence of a plaintiff of whom the defendant is aware." Id.

Defendants Morris, Martinez, Urbina, Otis and Vista Hill move to dismiss this claim. The Court finds that plaintiff fails to state a claim with respect to each of these defendants. Plaintiff attempts to bootstrap the totality of the collective conspiracy allegations into individual claims for intentional infliction of emotional distress. However, plaintiff fails to allege (a) which conduct of each of these defendants was extreme and outrageous and (b) whether each of these defendants intended to cause or acted in reckless disregard of the probability of causing plaintiff emotional distress. For example, in the complaint, plaintiff alleges that Urbina provided plaintiff's mother with a key to the apartment. However, this action alone is insufficient to plead "extreme and outrageous conduct." Similarly, with respect to Martinez,

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[16] As this claim with respect to Jain was previously raised and dismissed in plaintiff's seventh cause of action, the Court need not reanalyze this claim here. See Discussion, B(2)(e).

plaintiff alleges that he was present in a supervisory capacity when Morris arrested plaintiff. Plaintiff fails to allege that Martinez knew there was no probable cause to arrest plaintiff Moreover, as the Court identified several deficiencies with the plaintiff's conspiracy claims, plaintiff cannot rely on the general conspiracy allegations included in this complaint to support these intentional infliction of emotional distress claims. Accordingly, defendants' motions to dismiss plaintiff's thirteenth cause of action are **GRANTED**. Plaintiff's thirteenth cause of action is hereby **DISMISSED without prejudice**.

C. Motion to Strike Under Fed.R.Civ.P. Rule 12(f)

As the Court has dismissed plaintiff's complaint against defendants Vista Hill and Otis, defendants Vista Hill and Otis' motion to strike under Fed.R.Civ.P. Rule 12(f) is hereby **DENIED as moot.**

D. Appeal of Discovery Order

Having considered the memoranda in support of and in opposition to plaintiff's objections to the Order Temporarily Staying Discovery issued by Magistrate Judge Brooks on May 8, 1998, the Court finds that the magistrate judge's order is neither clearly erroneous nor contrary to law. Therefore, the Court **OVERRULES** the objections and upholds the order of the magistrate judge. Moreover, as this order dismisses the complaint with respect to all of the defendants, except defendant White, the Court **ORDERS** that no discovery whatsoever, including discovery against defendant White and any of the dismissed defendants, shall be conducted until either (a) a viable amended complaint survives a future motion to dismiss or (b) the time for filing any such motion under the Federal Rules of Civil Procedure has passed and the defendants have answered plaintiff's amended complaint.[17]

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[17] In preventing the initiation of discovery at this stage of the proceedings, the Court endeavors to avoid piecemeal and inefficient

CONCLUSION

Based on the preceding discussion, defendants' motions to dismiss are **GRANTED**. The Court hereby **ORDERS** that:

1. Plaintiff's first cause of action for invasion of privacy against the Regents is **DISMISSED with prejudice** for lack of jurisdiction under Fed.R.Civ.P. Rule 12(b)(1). This cause of action is dismissed in its entirety.
2. Plaintiff's second cause of action for false imprisonment is (a) **DISMISSED with prejudice** for lack of jurisdiction under Fed.R.Civ.P. Rule 12(b)(1) with respect to the Regents, Martinez and Morris and (b) **DISMISSED without prejudice** under Fed.R.Civ.P. Rule 12(b)(6) with respect to Otis and Vista Hill.
3. Plaintiff's third cause of action for conspiracy to commit trespass is DISMISSED with **prejudice for** lack of jurisdiction under Fed.R.Civ.P. Rule 12(b)(1) with respect to the Regents and Urbina.
4. Plaintiff's fourth cause of action for conspiracy under § 1983 is **DISMISSED without prejudice** with respect to Attiyeh, Martinez, Morris, Urbina, Otis and Vista Hill.
5. Plaintiff's fifth cause of action under Cal. Civ. Code § 52.1(b) is (a) **DISMISSED with prejudice** for lack of jurisdiction under Fed.R.Civ.P. Rule 12(b)(1) with respect to the Regents, Attiyeh, Martinez, Morris and Urbina and (b) **DISMISSED with prejudice** under Fed.R.Civ.P. Rule 12(b)(6) with respect to defendants Otis and Vista Hill.
6. Plaintiff's sixth cause of action for negligent infliction of emotional distress is (a) **DISMISSED with prejudice** for lack of jurisdiction under Fed.R.Civ.P. Rule 12(b)(1) against the Regents and Jain in his

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discovery practices. Furthermore, at this time, the Court can discern no reason to expedite the discovery process.

official capacity and (b) **DISMISSED with prejudice** against Jain in his individual capacity.

7. Plaintiff's seventh cause of action for intentional infliction of emotional distress is (a) **DISMISSED with prejudice** for lack of jurisdiction under Fed.R.Civ.P. Rule 12(b)(1) against the Regents and Jain in his official capacity and (b) **DISMISSED with prejudice** against Jain in his individual capacity.
8. Plaintiff's eighth cause of action for conspiracy to deny plaintiff access to legal representation is **DISMISSED with prejudice** for lack of jurisdiction under Fed.R.Civ.P. Rule 12(b)(1) against the Regents. This cause of action is dismissed in its entirety.
9. Plaintiff's ninth cause of action for an alleged § 1983 violation by Attiyeh is **DISMISSED with prejudice** for lack of jurisdiction under Fed.R.Civ.P. Rule 12(b)(1). This cause of action is dismissed in its entirety.
10. Plaintiff's tenth cause of action based on a denial plaintiff's access to the courts under § **1983 is DISMISSED with prejudice under Fed.R.Civ.P. Rule** 12(b)(6) with respect to Attiyeh, Martinez, Morris, Urbina, Otis and Vista Hill.
11. Plaintiff's eleventh cause of action based on a denial plaintiff's access to the courts in violation of the Bane Act is (a) **DISMISSED with prejudice** under Fed.R.Civ.P. Rule 12(b)(1) with respect to the Regents and (b) **DISMISSED with prejudice** under Fed.R.Civ.P. Rule 12(b)(6) with respect to Attiyeh, Martinez, Morris, Urbina, Jain, Otis and Vista Hill.
12. Plaintiff's twelfth cause of action for public disclosure of private facts is (a) **DISMISSED with prejudice** under Fed.R.Civ.P Rule 12(b)(1) with respect to the **Regents** and (b) **DISMISSED without prejudice** under Fed.R.Civ.P. Rule 12(b)(6) with respect to Attiyeh, Martinez, Morris, Urbina, Jain, Otis and Vista Hill.

13. Plaintiff's thirteenth cause of action for intentional infliction of emotional distress is (a) **DISMISSED with prejudice** under Fed.R.Civ.P. Rule 12(b)(1) with respect to the Regents and (b) **DISMISSED without prejudice** under Fed.R.Civ.P. Rule 12(b)(6) with respect to Attiyeh, Martinez, Morris, Urbina, Jain, Otis and Vista Hill.

The Court further ORDERS that:

1. Defendants Vista Hill and Otis' motion to strike under Fed.R.Civ.P. Rule 12(f) is hereby **DENIED as moot.**
2. Plaintiff's objections to Magistrate Judge Brook's order staying discovery are **OVERRULED** and the order is **AFFIRMED**. No discovery whatsoever, including discovery against defendant White and any of the dismissed defendants, shall he conducted until either (a) a viable amended complaint survives a future motion to dismiss or (b) the time for filing any such motion under the Federal Rules of Civil Procedure has passed and the defendants have answered plaintiff's amended complaint.

Plaintiff shall have 20 days from the file-stamped date of this order to file an amended complaint which addresses the deficiencies identified in this order.

IT IS SO ORDERED.

DATED: 6/9/98

/s/ Irma E. Gonzalez
IRMA E. GONZALEZ, Judge
United States District Court

cc: All Parties

APPENDIX D

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

CASE NO. 98-0468-IEG (RBB)

DAVID A. WHITE,
Plaintiff,

vs.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, SAN DIEGO; et al.,
Defendants.

[FILED: Nov. 25, 1998, By /s/ Gobb Deputy, Doc # 139]

ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFF'S MOTION TO ALTER OR AMEND THE COURT'S ORDER DISMISSING PLAINTIFF'S AMENDED COMPLAINT
[Doc. # 126]

BACKGROUND

On September 18, 1998, the Court issued an Order granting defendants' motions to dismiss plaintiff's amended complaint.[1] In his amended complaint, plaintiff alleged that defendants engaged in a massive conspiracy to ensure that plaintiff would be denied admission to several top graduate

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[1] The Court dismissed plaintiff's original complaint on June 9, 1998, also pursuant to defendants' motions.

Computer Science Engineering ("CSE") programs.[2] Plaintiff alleged that the entire Admissions Committee at UCSD participated in this conspiracy and that, over time, everyone at UCSD learned of the admissions fraud. In addition, plaintiff alleged that, in order to ensure that no one would inform plaintiff of the admissions fraud, defendants participated in another conspiracy to stage the death of one of plaintiff's classmates, Jeff Casey.[3] Plaintiff also alleged that on March 31, 1995, members of the CSE Department's computer lab conspired to access plaintiff's private computer files and to expose those files to the faculty and staff in the CSE department for the purpose of embarrassing plaintiff.[4] Plaintiff further alleged that, eventually, even his family became part of the conspiracy against him.[5] Moreover,

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[2] According to plaintiff's amended complaint, at the close of plaintiff's undergraduate career at the University of Michigan, where plaintiff studied under the guidance of defendant Jain, he applied for admission to numerous graduate programs throughout the United States. Because plaintiff was a top student at Michigan, he expected to be admitted into some of the elite CSE programs. Plaintiff alleged, however, that when Jain left Michigan to join the faculty at the University of California, San Diego ("UCSD"), Jain initiated a conspiracy to guarantee that plaintiff's applications for programs at other graduate schools would be rejected (so that plaintiff would be forced to pursue his studies at UCSD, where Jain could employ plaintiff and take advantage of his engineering talents).

[3] According to plaintiff's amended complaint, defendants staged the suicide with the knowledge of everyone at UCSD, except plaintiff, so that all of these individuals would be dissuaded from revealing the truth about the admissions fraud. Plaintiff alleges that, by exposing everyone else in the UCSD community to the staged suicide, defendants intended to make these other people "partners in crime" (Plaintiff's Amended Complaint ¶ 51.)

[4] In particular, plaintiff alleged that the department's help desk employees disclosed information from a profile that plaintiff prepared for a dating service and that defendants conspired to prevent plaintiff from filing a lawsuit for invasion of privacy by pressuring lawyers throughout California not to take plaintiff's case.

[5] For example, plaintiff alleged that his mother improperly gained admittance into plaintiff's apartment and encouraged him to see a

plaintiff alleged that defendants orchestrated a massive campaign of surveillance to harass plaintiff and to dissuade him from exposing their actions.[6] Plaintiff alleged that, in furtherance of that objective, defendants took drastic measures against plaintiff, such as committing him involuntarily from March 5, 1997 to March 11, 1997. Based on these allegations, plaintiff brought the following causes of action against defendants: (1) conspiracy to commit fraud (regarding plaintiff's admission and the staged suicide of Jeff Casey); (2) conspiracy to intentionally inflict emotional distress; (3) conspiracy under section 1983 to violate plaintiff's First and Fourth Amendment rights; (4) conspiracy to invade plaintiff's privacy; (5) sex discrimination in violation of Title IX; and, (6) injunctive relief under California Code of Civil Procedure § 527.6.[7] In response, defendants Regents, Attiyeh, Dynes, and Atkinson filed a motion to dismiss plaintiff's claims under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6); defendants Jain, Martinez, Morris, Urbina, Hu, Williamson, and Jones filed a

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psychiatrist, not out of real concern for plaintiff's well-being, but in order to convince plaintiff to drop his lawsuit against UCSD.

[6] In fact, plaintiff alleged that "[t]he conspiracy has continued for so long, and knowledge of it has been so widespread, that a movie apparently based on plaintiff's situation entitled 'The Truman Show' was made and released before plaintiff was even fully aware of his plight." (Plaintiff's Amended Complaint ¶ 4.)

[7] Plaintiff brought these causes of action against (a) the Regents of the University of California, San Diego; (b) Ramesh Jain, a CSE professor at UCSD; (c) Richard Atkinson, the President of the University of California; (d) Robert Dynes, the Chancellor of UCSD; (e) Richard Attiyeh, the Dean of Graduate Studies at UCSD; (f) Stephanie Martinez, a campus police officer; (g) Tommy Morris, a campus police officer; (h) Te C. Hu, a CSE professor and former Chair of the graduate admissions committee during 1992-93; (i) S. Gill Williamson, Chairman of the CSE Department; (j) Robert Jones, a campus detective; (k) Christina Urbina, a graduate student housing manager; (1) Mariana White, plaintiff's mother; (m) John Otis, the psychiatrist who supervised plaintiff's commitment; and, (n) Vista Hill Foundation, the institution where plaintiff was detained in early March of 1997.

separate motion to dismiss under Rules 12(b)(1) and 12(b)(6); and defendant Vista Hill Foundation filed a motion to dismiss under 12(b)(6) or, in the alternative, a motion to strike under Rule 12(f), in which defendant Otis joined. The Court granted defendants' motions to dismiss, thereby dismissing plaintiff's complaint in its entirety.[8]

On September 29, 1998, plaintiff filed the instant amended motion to alter or amend the Court's September 18, 1998, Order pursuant to Federal Rule of Civil Procedure 59(e). In his motion, plaintiff challenges the Court's decision in its Order to dismiss plaintiff's state law causes of action with prejudice. Plaintiff also requests that the Court correct a typographical error on page 8, line 8, of its Order and remove footnote 13 of the Order, which plaintiff finds offensive. Defendants oppose plaintiff's principal motion, arguing (a) that plaintiff's motion under Rule 59(e) is improper, and (b) that the Court properly exercised its discretion in exercising jurisdiction over plaintiff's state law claims.[9]

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[8] Although defendant White did not file a motion to dismiss, the Court dismissed defendant White from the action sua sponte, noting that "(a) she is only implicated in plaintiff's conspiracy claims; (b) plaintiff has failed to adequately plead a single claim or conspiracy with respect to all of the other defendants; (c) defendant White cannot conspire with herself; and (d) therefore, plaintiff fails to state a claim with respect to defendant White." (Order at 14 n.12.)

[9] Defendant Otis has filed a separate opposition to plaintiff's motion in which he raises arguments similar to those posed by the other defendants. Accordingly, the Court does not address these arguments. Defendant Vista Hill Foundation has joined in the oppositions filed by the other defendants. Although defendant White has not filed an opposition on her own behalf, the Court finds that the arguments discussed below apply equally to defendant White and treats them accordingly. Defendants do no oppose plaintiff's motion to correct the typographical error cited by plaintiff Thus, the Court hereby GRANTS plaintiff's request to substitute defendant Jones for defendant Williamson on page 8, line 8, of the Court's Order. The Court also GRANTS Vista Hill Foundation's request for judicial notice.

DISCUSSION

A. Legal Standard

A motion to alter or amend a court order under Rule 59(e) essentially seeks "a substantive change of mind by the court." Miller v. Transamerican Press Inc., 709 F.2d 524, 527 (9th Cir. 1983). Reconsideration under Rule 59(e) is therefore appropriate only if: (1) the plaintiff presents newly discovered evidence; (2) the court committed clear error or the initial decision was manifestly unjust; (3) there is an intervening change in controlling law; or (4) other highly unusual circumstances exist that warrant reconsideration. See e.g., School Dist. No. 1J, Multnomah County Or. v. ACandS, Inc., 5 F.3d 1255, 1263 (9th Cir. 1993), cert. denied 512 U.S. 1236 (1994); 11 Charles Alan Wright, Arthur R. Miller, & Mary Kay Kane, Federal Practice and Procedure § 2810.1 (1995).

B. Analysis

Plaintiff does not identify in his motion the basis (or bases) pursuant to which he seeks to alter or amend the Court's Order dismissing plaintiff's amended complaint. Because plaintiff does not claim in his motion that he has discovered new evidence, that there has been an intervening change in law, or that his case presents highly unusual circumstances, three of the bases identified by the Ninth Circuit clearly are not applicable to the present motion. The Court must therefore consider whether, as plaintiff's motion suggests, the Court committed clear error or caused manifest injustice in dismissing plaintiff's state law claims.

In his motion, plaintiff challenges the Court's decision to dismiss with prejudice plaintiff's state law claims (along with his federal causes of action). Plaintiff argues that the Court "should decline to exercise supplemental jurisdiction over the state law claims so those state law claims can be freely

decided in state court." (Motion at 3.)[10] Plaintiff states the he "did not contemplate a dismissal of the entire action with prejudice" and that he "did not consider the possibility of reaching the issue of whether the Court should retain jurisdiction of the state law claims when dismissing the entire action." (Id. at 2.) Plaintiff concedes that, although he "originally believed that the District Court was obligated to sua sponte decline to retain jurisdiction of the state law claims," (id. at 3) "after reading the case law, plaintiff realized that plaintiff, not the court, may have been at fault because he had failed to object and raise the issue," (id.).

Section 1367(a) confers supplemental jurisdiction on the federal district courts "over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution." 28 U.S.C. § 1367(a). As defendants point out in opposition to plaintiff's motion, section 1367(c) gives a district court the discretion to decline to exercise supplemental jurisdiction over a claim under subsection (a) if "(1) the claim raises a novel or complex issue of State law, (2) the claim substantially predominates over the claim or claims over which the district court has original jurisdiction, (3) the district court has dismissed all claims over which it has original jurisdiction, or (4) in exceptional circumstances, there are other compelling reasons for declining jurisdiction." Id. § 1367(c). Notably, in Acri v. Varian Assocs., Inc., 114 F.3d 999 (9th Cir. 1997), the Ninth Circuit held that a district court "may exercise supplemental jurisdiction over state law claims without sua sponte addressing whether it should be declined under § 1367(c)," id. at 1000.

In light of the Ninth Circuit's holding in Acri, plaintiff cannot argue that the Court committed "clear error" in

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[10] Alternatively, plaintiff moves that the Court reverse its decision to dismiss plaintiff's cause of action for injunctive relief and the claims against defendant White. (See Motion at 1-2.)

dismissing plaintiff's state law claims. The Court was not obliged to make a section 1367(c) analysis in this case because no party had requested that it do so. Although plaintiff argues that, "in cases where a party is representing himself...mere inaction should not be sufficient to waive his right to raise this issue," (see Motion at 3), the Court finds plaintiff's representation that he was unaware that the Court could exercise supplemental jurisdiction over his state law claims entirely unconvincing. On June 3, 1998, in its Order dismissing plaintiff's original complaint, the Court dismissed all of plaintiff's causes of action--both state and federal. In light of that Order, plaintiff cannot plausibly argue that he lacked notice that the Court could utilize its statutory authority to exercising supplemental jurisdiction over all of plaintiff's claims.

Moreover, the Court does not find that its dismissal of plaintiff's state law claims has resulted in "manifest injustice." As defendants note in their oppositions, plaintiff chose to file this action, which contains both state and federal law claims, in federal court—despite having previously filed a similar action in state court. Plaintiff voluntarily dismissed his state court action so that all of his claims could be litigated at once in federal court. (See Vista Hill Foundation's Request for Judicial Notice, Notice of Entry of Dismissal and Proof of Service.) The Court will not allow plaintiff to use a Rule 59(e) motion to simply re-litigate old matters, or to raise arguments or evidence that could have been raised before this Court.

Furthermore, even assuming that, contrary to Ninth Circuit's holding in Acri, the Court was obligated, to conduct a sua sponte section 1367(c) analysis and, therefore, that plaintiff's motion is brought on an appropriate basis, the Court's exercise of supplemental jurisdiction in this case was entirely proper. In his motion, plaintiff cites Carnegie-Mellon Univ. v. Cohill, 484 U.S. 343, 350 n.7 (1988), for the proposition that "in the usual case in which all federal-law claims are eliminated before trial, the balance of

factors...will point toward declining to exercise jurisdiction over the remaining state-law claims." Plaintiff argues that the values of judicial economy, convenience, fairness, and comity all weigh in favor of allowing his state law claims to be "freely decided in state court." (Motion at 3, 4-6.) Plaintiff notes that he is presently pursuing a state court action against defendants and argues that, had he properly raised an objection to the Court's dismissal of his state law claims, the Court would have had to have refrained from exercising supplemental jurisdiction over these claims. (See id.)

Plaintiff's argument that the Court lacked the authority to exercise supplemental jurisdiction over his state law claims lacks merit. As an initial matter, the Court once again emphasizes that section 1367(c) gives a district court the discretion to exercise supplemental jurisdiction over a plaintiff's state law claims. Section 1376(a) states that district courts "shall" have supplemental jurisdiction "over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy." 28 U.S.C. § 1367(a). In the present case, plaintiff's state law claims stemmed from the same core of operative facts as his federal claims--i.e., the defendants' alleged conspiracies against plaintiff. See United Mine Workers v. Gibbs, 383 U.S. 715, 725 (1966) (holding that a federal court can exercise supplemental jurisdiction over both state and federal law claims when they arise from a "common nucleus of operative facts").

In addition, although section 1376(c) permits district courts to decline to exercise supplemental jurisdiction over certain state law claims, see 28 U.S.C. § 1367(c) (stating that district courts "may" decline to exercise supplemental jurisdiction in four circumstances), as the Ninth Circuit recognized in Acri, the fact "[t]hat state law claims 'should' be dismissed if federal claims are dismissed before trial...has never meant that they must be dismissed." Acri, at 1000. Moreover, the Court disagrees with plaintiff's argument that

the values of judicial economy, convenience, fairness, and comity weighed against the Court's exercise of supplemental jurisdiction in the present case. In light of the Court's finding that plaintiff's allegations in his amended complaint failed to state claims for which relief could be granted, the values of judicial economy, convenience, fairness, and comity would not have been served by allowing plaintiff to pursue those same claims before a state court.[11]

CONCLUSION

Based on the preceding discussion, plaintiff's motion to amend or alter the Court's September 18, 1998, Order pursuant to Rule 59(e) is hereby **GRANTED IN PART AND DENIED IN PART**. The Court hereby **GRANTS** plaintiff's request to correct the typographical error on page 8, line 8, of its September 18, 1998, Order, and **DENIES** plaintiff's requests to dismiss plaintiff's state law claims without prejudice and to strike footnote 13 of the Court's Order.[12]

IT IS SO ORDERED.

DATED: Nov. 23, 1998

/s/ Irma E. Gonzalez
IRMA E. GONZALEZ, Judge
United States District Court

cc: David White
P.O. Box 122949
San Diego, CA 92112-2949
All Parties

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[11] Relatedly, although plaintiff challenges footnote 13 of the Court's Order as "extraneous, without legal merit, and personally offensive," (Motion at 2), the Court **DENIES** plaintiff's motion to strike footnote 13. Footnote 13, which characterizes plaintiff's amended complaint as "frivolous," was not dispositive of plaintiff's claims. Rather, footnote 13 merely raised a possible alternative basis for the Court's dismissal of plaintiff's amended complaint.

[12] Because the Court finds that plaintiff's principal motion lacks merit, the Court also **DENIES** plaintiff's motion to dismiss without prejudice a subset of plaintiff's state law claims.

APPENDIX E

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

CASE NO. 98-0468-IEG (RBB)

DAVID A. WHITE,
Plaintiff,

vs.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA; UNIVERSITY OF CALIFORNIA, SAN DIEGO, et al.,
Defendants.

[FILED: Apr. 22, 1998, By /s/ H. Rodriguez Deputy, Doc # 34]

ORDER DENYING PLAINTIFF'S REQUEST FOR AN ORDER COMPELLING THE CLERK OF THE COURT TO ISSUE SIGNED BUT OTHERWISE BLANK SUBPOENAS

On April 15, 1998, plaintiff filed for an order to compelling the Clerk of the Court to issue signed, but otherwise, blank subpoenas pursuant to Fed.R.Civ.P. Rule 45(a)(3). After having reviewed all of the documents submitted by plaintiff in support of this motion, the Court hereby DENIES without prejudice plaintiff's request. Plaintiff may renew this motion at a later time if the issuance

of subpoenas becomes necessary to secure the appearance of witnesses at a future hearing or at trial.

IT IS SO ORDERED.

DATED: April 21, 1998

/s/ Irma E. Gonzalez
IRMA E. GONZALEZ, Judge
United States District Court

cc: All Parties

APPENDIX F

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Civil No. 98-0468-IEG (RBB)

DAVID A. WHITE,
Plaintiff,

v.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, SAN DIEGO, RAMESH JAIN, an individual, RICHARD ATTIYEH, an individual, STEPHANIE M. MARTINEZ, an individual, TOMMY L. MORRIS, an individual, CHRISTINE URBINA, an individual, MARIANA WHITE, an individual, JOHN L. OTIS, an individual, VISTA HILL FOUNDATION, and DOES 1 through 40, inclusively,
Defendants.

[FILED: May 8, 1998, By /s/ Gobb Deputy, Doc # 44]

ORDER GRANTING DEFENDANT THE REGENTS OF CALIFORNIA'S EX PARTE APPLICATION FOR A STAY OF DISCOVERY

On April 29, 1998, Defendant, THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, filed an ex parte application seeking a protective order staying discovery until after Defendant's Motion to Dismiss can be heard by Judge

Gonzalez on May 26, 1998. After review of Defendant's application, Plaintiff's opposition and all supporting documents, this Court hereby GRANTS Defendant's application. All discovery is stayed until June 8, 1998.

IT IS SO ORDERED.

DATED: 5-8-98

/s/ Ruben B. Brooks
Ruben B. Brooks
United States Magistrate Judge

cc: All Parties
Judge Gonzalez

APPENDIX G

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 98-56684
D.C. No. CV-98-00468-IEG Southern California

DAVID A. WHITE,
Plaintiff-Appellant,

v.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, SAN DIEGO; RAMESH JAIN, an individual; RICHARD ATTIYEH, an individual; STEPHANIE M. MARTINEZ, an individual; TOMMY L. MORRIS, an individual; CHRISTINE URBINA, an individual; MARIANA H. WHITE, an individual; JOHN L. OTIS, an individual; VISTA HILL FOUNDATION; RICHARD C. ATKINSON, an individual; ROBERT DYNES, an individual; TE C. HU, an individual; S. GILL WILLIAMSON, an individual; ROBERT L. JONES, an individual,
Defendants-Appellees

[FILED: Dec. 9, 1999]

ORDER

Before: BROWNING, SCHROEDER, and PREGERSON, Circuit Judges

The panel has voted to deny appellant's petition for panel rehearing and petition for rehearing en banc.

The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. *See* Fed. R. App. P. 35.

The petition for panel rehearing and the petition for rehearing en banc are denied.

APPENDIX H

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Case No. 98cv0468 IEG (RBB)

David A. White,
Plaintiff,

vs.

The Regents of the University of California, Ramesh Jain, an individual, Richard Atkinson (DOE 1), an individual, Robert Dynes (DOE 2), an individual, Richard Attiyeh, an individual, Stephanie M. Martinez, an individual, Tommy L. Morris, an individual, Christine Urbina, an individual, Te C. Hu (DOE 3), an individual, S. Gill Williamson (DOE 4), an individual, Robert L. Jones (DOE 5), an individual, Mariana H. White, an individual, John L. Otis, an individual, Vista Hill Foundation, and DOES 6 through 40, inclusively.
Defendants.

[FILED: July 24, 1998, Doc # 78]

First Amended Complaint for Damages and Injunctive Relief for:

1. Constructive Fraud and/or Fraud, Fraudulent Concealment, Conspiracy: Conspiracy to commit admissions fraud, fake a suicide, and cover it up.
2. Intentional Infliction of Emotional Distress via Conspiracy.

3. 42 U.S.C. § 1983: First, Fourth & Fourteenth Amendments of the U.S. Constitution: Conspiracy to Deter and Punish Exercise of First Amendment Rights Violating Fourth Amendment Rights.
4. Invasion of Privacy, Public Disclosure of Private Facts, Conspiracy.
5. 20 U.S.C. § 1681: Sex Discrimination and Retaliation.
6. CCP § 527.6: Injunctive relief from harassment.

I. Introduction and Summary

1. This complaint alleges what became a large longstanding conspiracy to deceive plaintiff in order to cover-up what plaintiff now believes was originally admissions fraud by defendant Ramesh Jain (and others). Defendant Ramesh Jain apparently plotted and executed a plan to manipulate plaintiff's pursuit of graduate work so that plaintiff, a promising student, would work for him so he would profit, academically or monetarily, from plaintiff's future work. The key to the plan, the admissions fraud, was to secretly sabotage plaintiff's admission to other better graduate schools, probably by writing an adverse letter of recommendation, so that plaintiff would unknowingly decide to attend UCSD and work with the defendant Ramesh Jain.

2. However, plaintiff believes faculty and students at UCSD were aware of the admissions fraud (and related wrongdoing). In order to prevent them from disclosing the secret, plaintiff believes the death via suicide of a student plaintiff believed was his friend was apparently[1] faked. Plaintiff believes the faked death was a subtle form of political self-blackmail because it created a conflict of interest for everyone who might have a motive to tell plaintiff of the original fraud. Of course, people associated with defendant Ramesh Jain who worked with plaintiff would not

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[1] Plaintiff has not yet been able to conclusively prove he is still alive, but everything points to that conclusion.

tell because of loyalty and. potential damage to their own interest. Other faculty members or students would not tell because they could damage to their own department, they would be reporting a crime committed by a student's family and others, and would probably face the retaliation from the university. Plaintiff believes this insidious plan, occurring in the first year of graduate school, trapped plaintiff in a web of deception that, by design, was long-standing and included nearly everyone plaintiff knew (probably including plaintiff's family). At the same time, plaintiff believes this situation left plaintiff without any apparent motive or connection between the "suicide" of plaintiff's "friend," plaintiff, and the fraud by the original perpetrator, defendant Ramesh Jain. In fact, there is evidence that the conspirators planned from the beginning to tell plaintiff he was paranoid and/or mentally ill if he began to suspect a conspiracy because, in some sense, "*everyone" really was conspiring against plaintiff* although the apparent motive for and nature of the conspiracy was hopelessly obfuscated.

3. In order to create and maintain the web of deceit, the university engaged in pervasive fraud, surveillance, and corruption over a period of more than four years involving nearly everyone plaintiff was in contact with, thereby imprisoning and isolating plaintiff in an increasingly malicious web of lies and harassment. Further, the conspiracy itself and the surveillance used to maintain it grew over the years, apparently taking on a life of its own, never really decreasing in scope. Before plaintiff was even aware it existed, the situation had grown to a level such that his only way to obtain the truth and free himself was to pursue a lawsuit. However, at the same time, a lawsuit would probably expose massive fraud and corruption at UCSD and therefore in addition to causing damage to the university's reputation, it could result in audits, officials being removed from office, and possible criminal prosecutions. Therefore the university was willing to spend/waste almost limitless amounts of taxpayer money to harass plaintiff, delay or avoid

a lawsuit, and maintain the cover-up. In fact, in response to defendant's legally frivolous requests, some of which ironically included claims of savings of taxpayer money, four different judges have issued orders[2] delaying plaintiff's attempts at discovery that would expose and end the conspiracy.

4. The conspiracy has continued for so long, and knowledge of it has been so widespread, that a movie apparently based on plaintiff's situation entitled "The Truman Show"[3] was made and released before plaintiff was

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[2] For instance, this Court's order appears to completely defy and disregard common sense by implying that plaintiff has to plead detailed facts regarding the formation and operation of a covert and perhaps tacit conspiracy before being allowed to conduct discovery. For example, in a footnote on page 9 of the June 10 order, the Court states that the case was dismissed in part because "Plaintiff fails to identify a time and place where Otis and Vista Hill employees met with other alleged co-conspirators to agree to a plan." In fact, since most or all of the blatant legal errors are related to unrealistic conspiracy pleading requirements, it seems as if the Court did not want to be responsible for revealing the conspiracy.

[3] Currently at the box office and on the WWW at http://www.thetrumanshow.com. There are so many similarities between plaintiff's life and Truman's life in the movie that it is difficult to believe it could be a coincidence. The character controlling the Trumans's life was named "Christof" and a "friend" of plaintiff apparently deeply involved in the conspiracy and the first witness deposed was named Christof. Plaintiff believes he must have been unknowingly monitored via hidden cameras, microphones, etc. like Truman in the movie. As in the movie, nearly everyone plaintiff knew was aware of the conspiracy and surveillance and it lasted for many years. As in the movie, a death of someone close the plaintiff was faked. As in the movie, plaintiff was (and is) a virtual prisoner. As in the movie, plaintiff gradually figured out his situation and originally asked for help from co-conspirators. The primary difference was the motive for and nature of the conspiracy, lack of a TV Show (hopefully), the degree of the faked reality (less faked reality, albeit still incredible, in the instant case), and the degree of malice (greater in the instant case). Further, even attorneys for defendant have stated in legal papers that plaintiff's allegations "read like a Hollywood movie plot."

even fully aware of his plight. Further, indirect references were apparently made over the years by various news media and in T.V. shows including "X-Files,"[4] "Viper,"[5] and "Michael Hayes."[6]

II. Jurisdiction

5. Jurisdiction is conferred on this Court by 28 U.S.C. § 1343 for 42 U.S.C. § 1983 claims, 42 U.S.C. § 2000d-7(a)(1) with respect to the Title IX (20 U.S.C. § 1681) cause of action against defendant UC Regents, and 28 U.S.C. § 1367(a) with respect to related claims under state law.

III. Parties

6. Plaintiff, David A. White, is and individual and is now, and at most of the time mentioned in this complaint was, a resident of San Diego County, California

7. Defendant, The Regents of the University of California (hereafter UC Regents), is a public corporation governing campuses of the University of California system established by Section 9 of Article IX of the Constitution of the State of California. University of California, San Diego (hereafter UCSD) is one campus in the University of California system

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[4] References seemed to appear in more recent episodes such as a statement by government conspirators to the protagonist Fox Mulder that seemed more applicable to plaintiff situation than the fictional situation of a FBI agent, "What are you going to do, file a civil rights action?" However, it seemed like plaintiff's situation was more often compared to the X-files than the reverse. For example, two different DMV employees, in San Diego and Sacramento, have recently told plaintiff the Jeffrey Casey's records are an "X-file," since his DMV record now somehow lists his driving class as "X" (probably fraud and/or a joke).

[5] There is an episode of Viper about a woman who thought her brother's death had been covered-up because he had been killed by the government, but actually her brother was a co-conspirator and had faked his own death. She attempted to contact the media and law enforcement, like plaintiff, but instead had to pursue some type of legal action in the courts.

[6] There was an episode where Michael Hayes, a fictional U.S. Attorney, pursued a politically unpopular civil rights action regarding a cover-up of wrongdoing by a police officer, and then made a statement near the end of the episode to the effect that everything could be a lie.

residing in San Diego County, and is the campus primarily involved in this action.

8. Defendant, Ramesh Jain, is now, and at all times mentioned in this complaint, was, a resident of San Diego County, California. Defendant Ramesh Jain is sued in his individual capacity.

9. Defendant, Richard Atkinson, was a resident of San Diego County, California until around October 1995, after which he was employed and probably resided in Alameda County, California. Defendant Richard Atkinson is sued both in his official capacity as previous Chancellor of University of California, San Diego, current President of the University of California System, and in his individual capacity.

10. Defendant, Robert Dynes, is now, and at all times mentioned in this complaint, was, a resident of San Diego County, California. Defendant Robert Dynes is sued both in his official capacity as Chancellor of University of California, San Diego, and in his individual capacity.

11. Defendant, Richard Attiyeh, is now, and at all times mentioned in this complaint, was, a resident of San Diego County, California. Defendant Richard Attiyeh is sued both in his official capacity as Vice Chancellor for Research and Dean of Graduate Studies at UCSD and in his individual capacity.

12. Defendant, Stephanie M. Martinez, is now, and at all times mentioned in this complaint, was, a resident of San Diego County, California. Defendant Stephanie M. Martinez is a UCSD Police Officer and is sued in her individual capacity.

13. Defendant, Tommy L. Morris, is now, and at all times mentioned in this complaint, was, a resident of San Diego County, California. Defendant Tommy L. Morris is a UCSD Police Officer and is sued in his individual capacity.

14. Defendant, Christine Urbina, is now, and at all times mentioned in this complaint, was, a resident of San Diego County, California. Defendant Christine Urbina manages

graduate student housing at Mesa Apartments at UCSD and is sued in her individual capacity.

15. Defendant, Te C. Hu, is now, and at all times mentioned in this complaint, was, a resident of San Diego County, California. Defendant Te C. Hu is a professor of Computer Science and Engineering at UCSD and is sued in his individual capacity..

16. Defendant, S. Gill Williamson, is now, and at all times mentioned in this complaint, was, a resident of San Diego County, California. Defendant S. Gill Williamson is a professor of Computer Science and Engineering at UCSD and previous chair of the Computer Science and Engineering Department and is sued in his individual capacity.

17. Defendant, Robert L. Jones, is now, and at all times mentioned in this complaint, was, a resident of San Diego County, California. Defendant Robert L. Jones is a UCSD police officer and is sued in his individual capacity.

18. Defendant, Mariana H. White, was present in San Diego County, California, from on or around February 23, 1998 until on or around March 10, 1998. She is now a resident of the state of Texas, and was a resident of Texas at the time of her aforementioned visit to California. Defendant Mariana H. White is sued in her individual capacity.

19. Defendant, John L. Otis, is now, and at all times mentioned in this complaint, was, a resident of San Diego County, California. Defendant John Otis is sued in his individual capacity.

20. Defendant, Vista Hill Foundation, is a non-profit corporation duly organized and existing under the laws of the State of California with its principal place of business in San Diego County, California.

21. Defendants, DOES, are unknown to defendant at this time, so plaintiff sues defendants by such a fictitious name. Plaintiff is informed and believes and thereon alleges that defendants DOES are individuals and corporations who were responsible for actions alleged herein, and are therefore liable to plaintiff for damages and injuries.

22. From September 1993 until March 1997, plaintiff was a graduate student at UCSD in the Computer Science & Engineering Department (hereafter CSE). Until the last months of 1996, plaintiff believed he was a promising Ph.D. student and was in good academic standing. Before attending UCSD, plaintiff attended University of Michigan and graduated summa cum laude as one of the top students in his class in Computer Engineering.

23. Defendant Ramesh Jain was and is a professor at UCSD and is director of the Visual Computing Laboratory. Defendant Ramesh Jain was previously a professor at University of Michigan and director of the A.I. Laboratory. Shortly before plaintiff began graduate school, defendant Ramesh Jain moved from University of Michigan to UCSD. Defendant Ramesh Jain also founded two companies where plaintiff was employed. He founded Imageware in Ann Arbor, Michigan, where plaintiff worked in 1993 before attending graduate school at UCSD. He also founded Virage which was located in San Diego County, California at that time, but is now in San Mateo, California. Plaintiff worked at Virage primarily during the summer of 1994.

24. Defendant Richard Attiyeh was Chancellor of UCSD from the time plaintiff first contacted UCSD until October 1, 1995, and therefore was Chancellor of UCSD at the time of the alleged admissions fraud and alleged faked death. On October 1, 1995, defendant Richard Atkinson was promoted to President of the University of California system, and his appointment was unanimous except for a "no" vote by then Student Regent Edward Gomez. Regarding his appointment, UCSD Graduate Student Association President Steve Dubb was quoted in the San Diego Union Tribune[7] on August 19, 1995, as "[criticizing] Atkinson as a 'consummate insider' who presided over 'abuses of authority' and for being aloof toward students." Plaintiff believes these comments were in

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[7] Archives available on the Internet via <URL: http://www.uniontribune.com/news/utarchives/index.html>.

reference to plaintiff's situation and possibly other similar situations. Defendant Robert Dynes is and has been Chancellor of UCSD since defendant Richard Atkinson's promotion on October 1, 1995.

25. According to Standing Order of the Regents[8] 100.6(a), "The Chancellor of each campus shall be the chief campus officer thereof and shall be the executive head of all activities on that campus, except as herein otherwise provided... In all matters within the Chancellor's jurisdiction, the Chancellor shall have administrative authority within the budgeted items for the campus and in accordance with policies for the University as determined by the President of the University. *The Chancellor shall be responsible for the organization and operation of the campus, its internal administration, and its discipline; and decisions made by the Chancellor in accordance with the provisions of the budget and with policies established by the Board or the President of the University shall be final.* The Chancellor of each campus shall nominate Officers, faculty members, and other employees on that campus in accordance with the provisions of these Standing Orders." (Emphasis added.)

26. According to Standing Order of the Regents 100.4, "The President shall be the executive head of the University and shall have full authority and responsibility over the administration of all affairs and operations of the University, excluding only those activities which are the responsibility of the Secretary, Treasurer, and General Counsel of The Regents. The President may delegate any of the duties of the office except service as an ex officio Regent." Also, as stated in the San Diego Union Tribune on August 19, 1995, "As president of the UC system, Richard Atkinson will have a large hand in picking his successor as chancellor of UCSD."

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[8] Standing Orders available on the Internet via <URL: http://www.ucop.edu/regents/bylaws/sotoc.html>.

27. In summary, the Chancellor is responsible for and makes final decisions regarding issues of budget, administration and discipline on a given campus, as long as the decisions are in accordance with the policies of the UC President and the Board of Regents. Further, defendant Richard Atkinson, the UC President, who was probably involved in the cover-up while he was UCSD Chancellor had significant influence in choosing his successor as Chancellor. Therefore, defendant Chancellor Robert Dynes obviously would have dual political responsibilities to protect his superior as well as the reputation of the UCSD campus itself.

28. Defendant Richard Attiyeh is the Dean of Graduate Studies. In that capacity, he has the highest and final administrative authority for adjudicating and resolving grievances related to graduate students (including plaintiff and the deceased graduate student). Further, he supervises the other UCSD employees in the Office of Graduate Studies and Research (hereafter OGSR) who resolve graduate student grievances. By reason of his position and authority, plaintiff alleges on information in belief, throughout this complaint, that defendant Richard Attiyeh must have acted, to some extent, as a co-conspirator on behalf of defendant UC Regents with regards to the wrongful activity. Defendant Richard Attiyeh also participated in plaintiff's admission to graduate school.

29. Defendant Stephanie M. Martinez and defendant Tommy L. Morris are UCSD Police Officers who were involved in an arrest, or at least a *de facto* arrest, of plaintiff on March 5, 1997. Officer Martinez transported plaintiff, handcuffed and locked in a police car, to the locked facility of Mesa Vista Hospital.

30. Defendant Christine Urbina is an employee of UCSD housing who defendants stated had contact with plaintiff's mother on or about February 24, 1997. Plaintiff is informed and believes and thereon alleges that defendant Urbina either provided or participated in providing plaintiff's mother with a key to plaintiff's apartment without plaintiff's consent.

31. Defendant Te C. Hu is a professor in the Computer Science and Engineering Department at UCSD. Defendant Te C. Hu was Chair of the Admissions Committee for the Computer Science and Engineering Department in 1993. That admission committee reviewed plaintiff's admissions records and made the decision to admit plaintiff to graduate school at UCSD. Defendant Te C. Hu also spoke with plaintiff when he visited UCSD before deciding to attend and acted surprised that plaintiff was not admitted elsewhere.

32. Defendant S. Gill Williamson is a professor in the Computer Science and Engineering Department at UCSD and was Chair of the department at the time plaintiff was admitted and at the time of the apparent faked suicide of a student in the department..

33. Defendant Mariana H. White is plaintiff's mother and unfortunately was a zealous participant in the hereafter-described conspiracy. Defendant White was surely involved by the end of 1996, although plaintiff believes she was involved before then and suspects she was involved before the faked death in May 1994.

34. Defendant John L. Otis is a licensed psychiatrist that plaintiff consulted on or about February 25, 1997 through March 11, 1997, since his mother urged that doing so would help plaintiff attain "relief" (from harassment by UCSD). Plaintiff was supposedly treated for a schizophrenic mental disorder, although plaintiff did not have any such disorder.

35. Defendant Vista Hill Foundation is a non-profit corporation that manages Mesa Vista Hospital. Mesa Vista Hospital is the mental health facility where plaintiff was detained in a locked facility from March 5, 1997 until March 11, 1997 due to a purported schizophrenic mental disorder. The staff of Mesa Vista Hospital were aware plaintiff was not there due to a mental disorder and yet still involuntarily detained plaintiff and provided unneeded and debilitating medication to plaintiff at their facility.

36. Plaintiff is informed and believes and thereon alleges that unknown defendants DOES include one or more

individuals employed by defendant UC Regents who were members of CSEHELP, the computer support staff for the CSE Department.

37. Plaintiff is informed and believes and thereon alleges that unknown defendants DOES include employees, representatives, or agents affiliated with defendant UC Regents who directed or managed wrongful activities directed at plaintiff alleged hereafter and therefore are legally responsible for those activities.

38. Plaintiff is informed and believes and thereon alleges that unknown defendants DOES include one or more corporations or individuals employed by defendant UC Regents to manage and oversee a surveillance operation aimed at harassing, delaying, and intimidating plaintiff alleged hereafter.

First Cause of Action
Constructive Fraud and/or Fraud,
Fraudulent Concealment, Conspiracy
(Conspiracy to commit admission fraud,
fake a suicide, cover it up, etc.)
(Against Defendants Ramesh Jain, Richard Atkinson, Robert Dynes, Richard Attiyeh, Te C. Hu, S. Gill Williamson, Robert L. Jones, Mariana H. White, & DOES)

39. The contents of paragraphs 1 through 38 are incorporated herein as if fully set out.

40. This cause of action includes various types of fraud committed by large numbers of people over a period of more than four years, and according to FRCP 9(b), must be plead with particularity, so the many fact are plead roughly chronologically. Plaintiff believes that there was some sort of relatively benign conspiracy that occurred before attending UCSD at University of Michigan that plaintiff still does not fully understand. Although it is not described here, the fact that plaintiff did not know about the previous conspiracy might have led defendant Ramesh Jain believe plaintiff was an easy target for admissions fraud, etc. Further, the previous

conspiracy made the activity and occurrences at UCSD seem more normal because the same type of thing had happened before.

41. Defendant Ramesh Jain was a professor and was director of the Artificial Intelligence (AI) Laboratory at University of Michigan. Plaintiff first contacted defendant Ramesh Jain in late 1991 during his third year as an undergraduate in an effort to receive some research experience as an undergraduate. Based on that request, plaintiff worked on independent study research with a Research Scientist who was previously a student of Ramesh Jain. Later, plaintiff took Ramesh Jain's Computer Vision class and was given an A+ in the class. Plaintiff was also hired as a part-time software engineer at Ramesh Jain's first start-up company named Imageware. Plaintiff asked defendant Ramesh Jain to write letters of recommendation for his applications for admission to graduate school at various top universities in computer science. By virtue of the relationship as a mentor (and an employer), and the fact that plaintiff asked defendant Ramesh Jain to write letters of recommendation, there was a relationship of trust and confidence between plaintiff and defendant Ramesh Jain. In fact, plaintiff chose defendant Ramesh Jain to write his letters of recommendation precisely because defendant Jain was well-known in his field and was director of the AI Laboratory at University of Michigan.

42. At about the same time plaintiff was applying to graduate school, defendant Ramesh Jain was in the process of moving from University of Michigan to UCSD and was interested in establishing himself at UCSD by obtaining good graduate students. Defendant Ramesh Jain knew that plaintiff was a better-qualified student than he would ordinarily be able to recruit at UCSD because a student like plaintiff would be admitted to a better school and attend that school instead of UCSD. For this reason, plaintiff is informed and believes and thereon alleges that defendant Ramesh Jain executed a plan to "capture" plaintiff as his

student by secretly sabotaging plaintiff's admission to graduate school so that plaintiff would attend UCSD and become his student.

43. Defendant Ramesh Jain engaged in the following conduct that did not appear suspicious to plaintiff at the time, but now plaintiff believes was actually done in pursuit of his plan. Shortly before plaintiff needed to find professors to write letters of recommendation, defendant Ramesh Jain told plaintiff a story about a student who wrote a fake letter of recommendation from him in order to get a job and was caught. On another occasion, defendant Ramesh Jain told plaintiff he believed plaintiff would be admitted to all the top graduate schools, and then suggested that plaintiff should nonetheless also apply to UCSD as a backup school. Defendant Ramesh Jain's prediction that plaintiff would be admitted everywhere seemed overly optimistic at the time, although plaintiff had an excellent academic record (nearly a 4.0 GPA in classes in his major, 3.87 GPA overall) and believed he would be admitted to at least one of the top schools (e.g. UC Berkeley). Now, plaintiff realizes that this unrealistic optimism was probably actually flattery designed to encourage plaintiff to both apply to UCSD and ask defendant Jain to write letters of recommendation. In fact, if defendant Ramesh Jain had not suggested applying to UCSD as a backup, plaintiff would not have applied there for graduate school. In addition, defendant Ramesh Jain offered plaintiff a job at his local company. Plaintiff accepted the job and worked hard, hoping to make a good impression for letters of recommendation, although the job mainly involved rewriting code, so it was not particularly interesting. Also, defendant Ramesh Jain gave plaintiff an A+ in his Computer Vision class, although plaintiff was originally given an A- that was corrected. However, an A+ was not particularly unusual since plaintiff had earned eight A+'s before then (plus four default A+'s in an elective class).

44. Plaintiff is informed and believes and thereon alleges that defendant Ramesh Jain sabotaged plaintiff's applications

to graduate schools by writing an adverse letter of recommendation (or perhaps in another way or ways) despite his statement that he believed plaintiff would get admitted at all the top graduate schools where he applied, despite the fact that plaintiff was given an A+ in Ramesh Jain's Computer Vision class, and despite the fact that he offered plaintiff a job at his company.

45. Plaintiff is informed and believes and thereon alleges that everyone on the graduate admissions committee that admitted plaintiff to UCSD, including a graduate student on the committee, was aware of defendant Ramesh Jain's scheme to sabotage plaintiff's admission to other graduate schools, probably because they reviewed plaintiff's letters of recommendation and were aware of defendant Ramesh Jain's interest in plaintiff

46. There was a fiduciary relationship or a relationship of trust between plaintiff and the admissions committee that admitted plaintiff to graduate school due to the confidential nature of the admissions process. Because plaintiff never saw any of his letters of recommendation, there was no way for plaintiff to know of any admissions fraud committed by defendant Ramesh Jain. Further, the admissions committee and their department at UCSD derived benefit from this admissions fraud because they obtained a better-qualified student for their department than they otherwise would have obtained. By completely concealing the admissions fraud from plaintiff and other graduate schools where plaintiff applied, the admissions committee violated its fiduciary duty, since it had the duty not to take advantage of its relationship of trust with plaintiff. For example, the UCSD admissions committee was aware that plaintiff applied to UC Berkeley, another school in the UC System, but failed to notify them of defendant Ramesh Jain's fraud and/or apparent conflict of interest. This must be actionable constructive fraud because otherwise the faculty at any university could, without the possibility of legal retribution, sabotage their promising students' attempts to be admitted to other graduate or

professional schools by writing adverse letters of recommendation in order to keep the talented students at their university.

47. Defendant Te C. Hu was the chair of the graduate admissions committee in the CSE department in the 1992-1993 academic year and therefore was primarily responsible for any conduct of the committee related to plaintiff. Defendant Te C. Hu also personally spoke to plaintiff and on one or two occasions acted surprised when plaintiff told him he had not been admitted to any other graduate schools, before plaintiff decided to attend UCSD. However, during the same visit to UCSD, a student who plaintiff later found out had been on the admissions committee told plaintiff he could get into better schools than UCSD even after plaintiff told the student he had been rejected at all other schools. That student and another student seemed to be attempting to discourage plaintiff from attending UCSD for mostly non-specific reasons. Therefore, defendant Te C. Hu participated in the admissions fraud both as chair of the CSE admissions committee and personally by intentionally withholding information from plaintiff regarding his admission, thereby violating his fiduciary duty to plaintiff.

48. Defendant Richard Attiyeh participated in plaintiff's admission to graduate school by offering plaintiff admission to graduate school and financial support in the form of a MICRO graduate fellowship. Because defendant Richard Attiyeh directly participated in the admissions process, he had a fiduciary duty to plaintiff to not take advantage of that process for the university or a faculty member's personal gain. Plaintiff is informed and believes and thereon alleges that defendant Richard Attiyeh became aware of the admissions fraud by defendant Ramesh Jain described above, but failed to notify plaintiff or other universities where plaintiff had applied of the existence of the fraud and thereby breached his duty.

49. Plaintiff is informed and believes and thereon alleges that faculty, students, and administrators at UCSD were

aware of the admissions fraud, and conspired to cover-up the fraud even before plaintiff began graduate school at UCSD. The overall key to maintaining the cover-up was to control plaintiff's relationships with other people to make sure that everyone close to plaintiff would not reveal the secrets or cover-up. Pursuant to this goal, plaintiff suspects that his first roommate at UCSD was recruited by the university in 1993, and certainly was later aware of the faked suicide and other surveillance. Even from the beginning, it seemed a little suspicious that she seemed to specifically want to room with plaintiff, despite the fact that she had only met plaintiff on the phone, but it makes more sense if she had other sources of information regarding plaintiff. In fact, plaintiff may have been encouraged to live in Mesa apartments because he would have less contact with other graduate students than he would have been at other types of graduate student housing. Also, plaintiff found out about a year or two after starting at UCSD that her boyfriend, who plaintiff used as an email contact before coming to UCSD, knew people in defendant Ramesh Jain's lab and both labs used the same type of graphics workstations so had common interests. Later, there was more clear evidence that she was aware of plaintiff's situation because she prominently posted a sign on the refrigerator with the following quote which seemed a little out of character and talked about "hiding bodies,"

> Lord grant me the serenity to accept the things I cannot change, the courage to change the things I can and *the wisdom to hide the bodies* of those people I had to kill because they pissed me off.[9]

50. When she left UCSD in mid-1996, plaintiff told her he thought something was wrong, but was not sure what it was. In response, she said plaintiff could talk to her parents because plaintiff's parents were much further away and gave plaintiff their phone number. Finally, she was admitted to a

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[9] There was no emphasis on the actual sign and the wording of the quote is close but might not be exact.

competitive residency program at UCSF, at her first choice of school and area of specialization. This good fortune might have been related to the fact that she was plaintiff's roommate and kept quiet. Later, in 1996, plaintiff's second roommate was also surely recruited by UCSD, probably in return for admissions to medical school at UCSD. In addition, plaintiff believes, for a number of reasons, that at least one "friend," Christof Fetzer, was recruited by UCSD from the beginning. Plaintiff suspects he was given mountain bikes in exchange for going mountain biking with plaintiff, because in retrospect, it seemed suspicious that Christof kept getting new mountain bikes and selling them or giving them away. Ironically, plaintiff believed him to have been one of his closest friends at UCSD and felt sorry for him because of his apparent misfortune. However, Christof Fetzer was apparently telling plaintiff lie upon lie, such as that his advisor had cancer and his girlfriend died of cancer.[10] This would explain why Christof Fetzer, the only employee of UCSD deposed thus far, was willing to lie about almost everything during his deposition. Also, there are indications that from the beginning of graduate school, UCSD had plaintiff under different types of surveillance. Specifically, plaintiff noticed surveillance in Reno, NV, on the way to start graduate school. Also, Christof Fetzer preferred to drive the back roads rather than the freeway and preferred to drive slowly on the freeway despite the fact he was from Germany (e.g. autobahn), which could indicate he was aware of vehicular surveillance. (Plaintiff has noticed, over the 1.5 years or so, that surveillance vehicles typical drive ahead of and pass the target on the freeway, so a fast target vehicle causes surveillance traffic to go much faster, while a slow driver can watch the surveillance vehicles and does not cause surveillance vehicles to speed.)

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[10] Perhaps this is why Christof was used as the name of a character in the movie "The Truman Show."

51. Plaintiff believes that defendant Ramesh Jain was concerned that students or faculty might tell plaintiff of the admissions fraud and did not want to lose plaintiff as a graduate student. Plaintiff believes that in an effort to reduce the risk that plaintiff would be told of the admissions fraud, defendant Ramesh Jain and others at UCSD planned to fake the death via suicide of a graduate student (Jeffrey S. Casey). As explained above, a faked death of a student in the CSE department would decrease the risk of exposure because it would make the same students and faculty members who knew of the admission's fraud into "partner's in crime" with defendant Ramesh Jain and others. Therefore, if plaintiff became aware of either the admissions fraud or faked death, everyone would lose directly or indirectly. Otherwise, other faculty members and students would not have any reason to protect defendant Ramesh Jain, and might tell plaintiff for his own good or in hopes that plaintiff would work as their student.

52. Jeffrey S. Casey participated in the charade before his faked death to make it appear that he was, or could have been, depressed and suicidal. On or around April 9, 1994, about three weeks before the date of the supposed suicide, Jeffrey S. Casey organized a dinner for graduate students in plaintiff's class and then did not show up for the dinner. This seemed strange to plaintiff, so plaintiff sent an email to Jeffrey Casey to see if he was OK. There was no response, but plaintiff finally saw Jeffrey Casey a few days latter. When plaintiff asked what had happened, Jeffrey Casey said only, "I was sick," and then said his prospective advisor C.K. Chang had also sent him an email saying he was "concerned." Later, after the supposed suicide, plaintiff was told by defendant Kristine Casey, his mother, that Jeffrey S. Casey had attempted suicide at that time by taking an overdose of pills. However, plaintiff was told his roommate found him and he was taken to the emergency room and was released in a few days. Further, plaintiff was told Jeffrey Casey had seen psychologists since the suicide attempt.

53. Later, about a week before the date of the supposed suicide, Jeffrey Casey called plaintiff on a Friday night and asked him to go for ice cream nearby. It was unusual because this had never happened before and Jeffrey Casey seemed serious as if he wanted to tell plaintiff something. During the meeting, Jeffrey Casey seemed unhappy about the department and said the professors view graduate students just as programmers. He also told plaintiff that he liked C.K. Chang as a person although he did not plan to work with him, perhaps so that plaintiff would not place blame on C.K. Chang.

54. Meanwhile, about a week before the supposed suicide, Julius Okopi, who plaintiff was told was a visiting scholar, invited everyone in defendant Ramesh Jain's lab to a birthday party he was throwing for himself. The birthday party was on the same day as plaintiff's birthday since Julius Okopi apparently had the same birthday. The birthday party also occurred the evening after plaintiff was told that Jeffrey Casey had committed suicide. Julius Okopi generously bought pizza for everyone and told plaintiff not to worry or talk about the suicide.

55. Unfortunately, plaintiff did not notice all the coincidences until years later in 1997: Plaintiff's birthday, a preplanned birthday party by someone in his lab, and a suicide of his friend all occurred on the same day? However, plaintiff did not notice at the time, probably because he was grieving what he believed was a death at the time and shortly thereafter and there was no apparent connection between his lab and Jeffrey Casey. Besides this "coincidence," there were a number of other suspicious things about Julius Okopi, so plaintiff now believes that Julius Okopi was probably not who he claimed to be. In fact, Julius Okopi probably created his new identity 1993 because his social security number was issued in California in 1992-1993, and it was probably not a coincidence that Julius Okopi had the same birthday as plaintiff. It was also suspicious that Julius Okopi, who is African-American, said he was a visiting scholar from

Sweden and supported by a school in Sweden. He in fact actually pointed out that people often had trouble believing that he was from Sweden. Further, although Julius Okopi talked with plaintiff about his research, frustrations, and problems with it and his Ph.D. on a number of occasions, it now appears to all have been carefully crafted lies that all seemed reasonable on the surface because he acted as if he were engrossed in and frustrated by his work. For example, he told plaintiff he worked alone on complicated mathematical problems in a field plaintiff was not familiar with, which was facially plausible but would also be a convenient lie. In addition, defendant Ramesh Jain did not seem to want plaintiff to talk with Julius Okopi and did not want to give him any lab responsibilities. In the end, Julius Okopi conveniently told plaintiff he had given up on finishing his Ph.D. and had taken a job at a local company.

56. On the day of the supposed suicide, plaintiff's birthday, plaintiff received a call early in the morning from a graduate student who said Jeffrey Casey had committed suicide, and plaintiff went to the CSE department to see what happened. Plaintiff noticed that there were no markings in the location where Jeffrey Casey had supposedly landed after jumping from the fifth floor of the building. There plaintiff met C.K. Chang and other student plaintiff did not know who was apparently a friend of Jeffrey Casey and went to Scripps Memorial Hospital where Jeffrey Casey was reported to have died. Plaintiff was told his mother and sister were there, but plaintiff only met his sister at that time. She said we would not want to see the body and we spoke to her only briefly. Therefore, we went back to the department without looking at the body.

57. There was a department meeting regarding the suicide that plaintiff believes occurred later that day. There was a police officer present, university psychologist, faculty and students from the CSE department, and plaintiff believes also Jeffrey Casey's mother. There, plaintiff was told about what had supposedly led to the suicide. Plaintiff and everyone else

there was told Jeffrey Casey had attempted suicide a few weeks before and had been seeing a psychologist, that Jeffrey Casey had been depressed for a long period of time but was careful to hide his depression from everyone, that Jeffrey Casey had committed suicide by jumping from the fifth floor of the building containing the CSE department. In fact, Jeffrey Casey's mother said Jeffrey Casey had secretly hidden his depression and that their whole family had problems with depression and they feared someone might not make it, but "not Jeff." (In retrospect, the broad statement that their whole family was at times suicidal made plaintiff believe Jeffrey Casey's mother must have been acting although the statement seemed plausible at the time.) One professor said that his girlfriend had committed suicide when he was a graduate student because she could not find a research topic. Defendant S. Gill Williamson, chair of the CSE Department, said he did not understand why anyone would commit suicide because he said he would just be curious about what would happen in the future. However, the psychologist explained that people commit suicide in order to relieve their pain. Plaintiff also remembers comments from faculty members about the fact that Jeffrey Casey liked to talk (which was true), and then soon after they said that if any other students did not like graduate school, they should just leave rather than committing suicide. At the end of the meeting, some students seemed to imply that plaintiff might be depressed as if they were worried plaintiff might be at risk for a suicide. However, one student, less intelligent than the others, seemed to be acting because he made a statement to the effect that people with "depression" are sick and that would necessarily explain the suicide. Of course, people become depressed to different degrees, but only a small subset commit suicide and usually only at certain times. However, at the time, because everyone else had put on a convincing act, plaintiff thought the comment was the result of ignorance about depression rather than indicating an act. Afterwards, two students commented to

plaintiff that of the people they know, they would not have thought that Jeffrey Casey would have committed suicide. Plaintiff then suggested the possibility of foul play, but dismissed it because he did not believe Jeffrey Casey had any enemies.

58. A week or so later, there was a ceremony to commemorate Jeffrey Casey's death. Plaintiff and other graduate students in his class were asked to give a speech about Jeffrey Casey. Plaintiff was embarrassed by the situation because he began to break down during his speech while all the other students seemed to be able to handle the situation without any type of problem controlling their emotions. (Of course, that is understandable because plaintiff was probably the only person who believed there was a death.) However, plaintiff tried to forget about the death and blamed Jeffrey Casey because, after all, a suicide must be his fault. It did have an adverse impact on plaintiff's work, and he received an A- in a defendant Ramesh Jain's class that term perhaps partially because of the suicide. Plaintiff was told there was a funeral for Jeffrey Casey, but plaintiff decided not to go because he wanted to put the death behind him.

59. The CSE department also sent email asking for donations and erected a bench as a memorial for Jeffrey Casey. Plaintiff attended the ceremony where the bench was unveiled. The memorial bench is still present near the AP&M building and CSE Department close to the location where Jeffrey Casey supposedly jumped to his death. Since Jeffrey Casey apparently did not die, the bench is perhaps really a memorial of plaintiff and the massive fraud related to the faked death.

60. Also, a week of so after the death, there was a short article about the suicide in the UCSD Guardian, the student newspaper. (This is just one of many cases where UCSD's apparently exercised influence over the media.)

61. Since plaintiff does not yet have conclusive evidence that Jeffrey Casey is alive, plaintiff will summarize the

circumstantial evidence that explains why plaintiff believes Jeffrey Casey's death was almost certainly faked. First of all, it is clear from the autopsy records that the account of Jeffrey Casey's death given to plaintiff was fabricated, primarily because the wrong body was used for the autopsy. (The pictures could not have been those of Jeffrey Casey based on plaintiff's personal knowledge, and the listed weight was about 50 pounds heavier than Jeffrey Casey's approximate weight at death.) Therefore, if it was not a suicide, the only two reasonable possibilities are that (1) he was murdered and the murder was covered up by substituting a body or (2) he never died and his death was faked. The records, and conversations with his mother, suggest that Jeffrey Casey's family must have known that the wrong body was used. The autopsy records also suggest that the Medical Examiner was aware that the records were fraudulent, and that a UCSD police officer participated in creating the false records. Further, the aforementioned information about Julius Okopi throwing a birthday party on the day of the suicide suggests that whatever happened was pre-planned. Therefore, even given the unlikely assumption that all or some of those people would conspire to murder or cover-up the murder of Jeffrey Casey, it seems extremely unlikely such a conspiracy would yield the autopsy records that exist. That is, assuming all those people, or even a subset, were members of a conspiracy, it is hard to believe that they would have chosen to cover-up a murder in this manner. First of all, if someone or some people wanted to murder Jeffrey Casey and make it look like a suicide, he could have been murdered in a way that looked more like a reasonable suicide, such as drug overdose from sleeping pills, and there would be no need to use a different body. Further, even if he were somehow killed in a way such that the body indicated foul play rather than a suicide, the conspirators would probably not create a record that was so obviously incorrect. Instead, they could have done something to the body to cover-up the evidence of foul play, such as burning it in a fire, etc., rather than using a

different body. A careful reading of the autopsy records indicates that the Medical Examiner almost certainly knew the records were fraudulent anyway, so the Medical Examiner could have simply ignored any non-obvious evidence of foul play on the original body and the parents could have cremated the body afterwards to destroy all the evidence. In fact, the only scenario where the autopsy records might reasonably be the result of a murder is the extremely unlikely case where Jeffrey Casey was murdered and somehow the body was lost or completely destroyed. Of course, that scenario is almost equivalent to a faked death. Therefore, given the autopsy records, knowledge of the decedent, and some other miscellaneous information, plaintiff now realizes it is possible to be almost certain that the death was faked because other possibilities are extremely unlikely. However, plaintiff believed it must have been a murder before because did not look at the evidence from that perspective before, had not yet come up with any motive for faking a death, and had not really come up with any other motive for the years of harassment.

62. In addition to the circumstantial evidence described above, plaintiff has requested SSN traces (address traces based on his social security number) and has attempted to obtain DMV records related to Jeffrey Casey. Neither source of information is reliable because defendant UC Regents apparently contacts people that plaintiff requests the information from before they provide plaintiff with information (plaintiff believes that at least his computer use, phone activity, and sound in his apartment are and have been monitored). Nonetheless, the last two SSN traces on Jeffrey Casey have returned the same information and showed activity on his SSN after his supposed death. (Two other searches for Jeffrey Casey's address before those returned different but suspicious and probably fabricated information.) There was activity until March 1995 at his address at death, and there was activity at his mother's address as recent as June 1997. However, the DMV records have been less useful

because the records plaintiff has received are unverified and appear to be fraudulent. Plaintiff has really only learned that the DMV appears to be unwilling to release information about Jeffrey Casey, especially his current address. Plaintiff believes that the anonymous DMV employee who hinted to plaintiff that Jeffrey Casey had a driver's license and that his vehicle registration records would reveal his current address was probably telling the truth, but that other DMV employees had been instructed to obfuscate plaintiff thereafter. In fact, the documents sent to plaintiff list Jeffrey Casey's license as Class "X." Two DMV employees, one in San Diego and one in Sacramento, told plaintiff that the "X" means that it is an "X-File." This is apparently a reference to the "X-Files" TV show and movie about a FBI agent who investigates government conspiracies among other things. The DMV record also lists the expiration date of his license/ID in the year 2000, which would be the expiration date if Jeffrey Casey had requested a new ID card in 1994 to replace the ID card left with the autopsy photos.

63. The autopsy report written by Brian D. Blackbourne, the County Medical Examiner, not only refers to the wrong body, but the report must have also been fabricated in so far as the cause of death and perhaps other details such as the hair and eye color (to match Jeffrey Casey's hair and eye color). Plaintiff viewed the autopsy photos and can state with certainty that they are not photos of Jeffrey Casey based on his personal knowledge. In addition, the listed weight was 219 pounds although plaintiff and Jeffrey Casey's mother estimated his weight as about 170 pounds. Further, the hair appears to be black in the photos but was reported as brown, and due to the hair color and complexion, plaintiff suspects that the eyes are not blue. (Jeffrey Casey's ID card was included with the autopsy photos, so that was probably used to provide the medical examiner with information about the desired hair and eye color.) In addition, a careful reading of the autopsy report reveals that the cause of death that was provided was inconsistent with other parts of the report. It is

extremely unlikely that such gross errors could possibly have been an honest mistake because they were obvious to plaintiff who has had no medical training. Specifically, the report states, "The pattern of injuries would indicate that he landed on his feet and then went forward striking his head with marked force. There were no injuries in the chest and abdomen." However, later in the autopsy report, there are statements that appear to be inconsistent. On page 4 of the report, he states that there is an injury to the abdomen: "On the lower right abdomen is a 6 inch x 3 inch area of bruise." On page 4, he states that there is a bruise on the back area: "Bruise is present over the area of the perineum and the upper right thigh posteriorly." This is inconsistent because a bruise on the back of his body is inconsistent with a fall landing on his feet and striking his head. Also, he states, "Abrasions are present on the back of both elbows. On the right there is a ½ inch abrasion. On the left there is a ½ inch x 5/8 inch abrasion which is associated with a large area of abrasion which covers the anterior left flexor forearm." This is completely inconsistent with the stated cause of death: a fall on the front of his body.

64. The records of Jeffrey Casey's death provide evidence that his mother, father, and sister all intentionally misidentified the body used for the autopsy since each of them was identified on some record as identifying the body. Further, the records suggest that a UCSD Police Officer, defendant Robert L. Jones, also made false statements regarding the death of Jeffrey Scott Casey and provided that information to an investigator at the Medical Examiners Office named David Lodge. The Coroner's Report states that defendant Robert L. Jones provide the following information: witnesses "heard something fall" and "found the decedent lying face down and unconscious on the concrete sidewalk below the breezeway," and "Subsequently on 5-6-94 the decedent's parents had found an apparent suicide note in the decedent's apartment." Therefore, Robert L. Jones was responsible for making false statements on a public record in

furtherance of a conspiracy to fake Jeffrey Casey's death via suicide. Since the conspiracy was designed specifically to mislead plaintiff and damage plaintiff's interests, as described above, and caused plaintiff to grieve a death that never occurred, this conduct constituted fraud.

65. Defendant S. Gill Williamson was the chair of the CSE department at the time of Jeffrey S. Casey's faked death. Defendant S. Gill Williamson participated directly in the conspiracy to fake the death of Jeffrey Casey by attending and participating in the meeting occurring soon after the supposed death of Jeffrey Casey. Specifically, he stated at the meeting that he did not understand why anyone would commit suicide. (In response, the university psychologist explained why.) He or some other faculty member stated that any other graduate students that have a problem with graduate school should just leave rather than committing suicide. In fact, three students in the Ph.D. program besides plaintiff and Jeffrey Casey a number of Ph.D. students in plaintiff's class later left the department. Sometime around February 1995, when plaintiff talked to defendant Gill Williamson about withdrawing from a class that he had forgotten to drop, defendant Gill Williamson acted as if plaintiff was some type of troublemaker or was a source of stress. At the time, plaintiff did not understand this reaction because he had never had any real contact with Gill Williamson before then, and this late withdrawal was the only negative thing plaintiff was aware that he had done, and it was a relatively minor issue. However, now it is clear that the problem plaintiff represented was the faked suicide and cover-up. Later, probably in late 1996, plaintiff noticed defendant Gill Williamson and Russell Impagliazzo, another CSE professor, walked towards the building where defendant Ramesh Jain office was located shortly after plaintiff had spoken with defendant Jain about plaintiff's potential lawsuit. (At that time, plaintiff knew only that there was some type of cover-up, believed it related to people finding out he had joined a dating service, and was considering a lawsuit.) It

seemed more than coincidental that those two CSE professors were walking to defendant Ramesh Jain's building at that time because the building was a long walk from the CSE department and plaintiff did not believe that either professor was working with anyone in that building. Because of the above circumstantial evidence and because Gill Williamson was chair of the CSE department at the time, plaintiff believes the defendant Gill Williamson was probably one of the primary conspirators involved in faking Jeffrey Casey's death and the cover-up.

66. Defendant Richard Atkinson was Chancellor of UCSD until October 1995. Therefore, defendant Richard Atkinson was Chancellor at the time of both plaintiff's admission to graduate school and the faked suicide. The faked suicide of Jeffrey Casey involved people in many different parts of the university and outside the university. Specifically, a UCSD Police Lieutenant, a university psychologist who plaintiff believes was the head of psychology and counseling services, most faculty in the CSE department, students and faculty and a supposed visiting scholar in the ECE department, and the county medical examiner were involved. In addition, there was a memorial bench constructed and a newspaper article written regarding the suicide. As Chancellor of UCSD, responsible for overseeing and coordinating the whole campus, defendant Richard Atkinson must have, at a minimum, been aware of such a large conspiracy involving the coordination of many different parts of the campus. Plaintiff is informed and believes and thereon alleges that defendant Richard Atkinson conspired with others on the campus to fake the suicide of Jeffrey Casey in order to cover-up the admissions fraud involving defendant Ramesh Jain and the CSE department, and later conspired with others to cover-up everything as Chancellor of UCSD and later as UC President.

67. The existence of the admissions fraud and the faked death was intentionally concealed from plaintiff. In fact, a huge amount of resources was expended to confuse and

obfuscate plaintiff so that he would not discovery the truth. In the end, plaintiff was never told of the admissions fraud, but merely inferred it from other facts like a missing piece in a puzzle that only clearly fit after other pieces have been filled in. It originally came to mind as a possible theory in late 1997 because it seemed to be the only way that defendant Ramesh Jain would have had the motive and opportunity to seriously damage plaintiff's interests without plaintiff ever suspecting it had happened. Further, it was not until July 1997 that plaintiff first believed that the "suicide" of Jeffrey Casey was the source of plaintiff's problem with UCSD, and plaintiff believed it was a murder, rather than a faked death, at that time. Therefore, plaintiff could not reasonably have known about the faked suicide until after July 1997 since it was intentionally concealed from plaintiff. Further, until plaintiff could see the whole picture, it was difficult to understand if and how the two were related and therefore know that the admissions fraud/sabotage theory was more than just a convenient theory and had evidentiary basis. Therefore, both types of fraud were concealed from plaintiff until at least July 1997, if not much later, which is less than a year before this action was filed. Further, since it is clear that the faked death and admissions fraud were part of a conspiracy that included imprisonment for supposed mental illness less than a year before this action was filed, none of the conduct is barred by the statute of limitations.

68. The admissions fraud itself damaged plaintiff's educational and career interests, and the efforts to keep it a secret caused plaintiff to be isolated and have trouble making friends at UCSD. The later faked death of Jeffrey Casey greatly compounded the problem and made plaintiff isolated and a joke.

69. The wrongful activity described proximately caused general damages to plaintiff in an amount according to proof at trial.

70. At a direct and proximate result of defendants' conduct, plaintiff has also suffered special damages

including, but not limited to, lost wages from prospective employment, lost future wages, and incidental expenses in an amount to be determined by proof at trial.

71. Actions by all defendants mentioned for this cause of action were done intentionally with fraudulent intent and therefore plaintiff requests exemplary damages from each defendant in an amount to be determined at trial.

Second Cause of Action
Intentional Infliction of Emotional Distress via Conspiracy.
(Against Defendants Ramesh Jain, Richard Atkinson, Robert Dynes, Richard Attiyeh, Stephanie M. Martinez, Tommy L. Morris, Christine Urbina, Te C. Hu, S. Gill Williamson, Robert L. Jones, Mariana H. White, & DOES)

72. The contents of paragraphs 1 through 71 are incorporated herein as if fully set out.

73. All allegations with respect to defendants for admissions fraud and faking the suicide of Jeffrey Casey should be taken as allegations of outrageous conduct for this cause of action. Plaintiff did not have time to rewrite all the allegations, so allegations that are inconsistent with an original cover-up of the fraud and related fraud alleged previously should be interpreted be modified in that manner.

74. In early 1995, plaintiff joined a video dating service. Plaintiff did not want people at UCSD to know about this because plaintiff had trouble getting dates, mainly because of fear and shyness, and joined the dating service hoping that it might help remedy his problem.

75. In order to become an active member in the dating service, each member had to create a one-page profile. Plaintiff used his computer at home to create the original profile and revised profiles to help insure privacy. Because plaintiff did not have a printer at home, plaintiff chose to print the profile using printers at UCSD.

76. Plaintiff specifically chose to use the CSE Department's computers and printers because plaintiff

(erroneously) believed he could expect greater privacy than in the Visual Computing Lab where he normally worked. Plaintiff was aware that the only people who should have access to plaintiff's private files on the CSE Department's machines are plaintiff and members of CSEHELP, the computer support staff for the CSE Department. However, it is possible, although unlikely, that others had access to plaintiff's files due to security breaches. Plaintiff believed that since CSEHELP consisted of salaried professional support staff rather than volunteers, they would be less likely to look at the plaintiff's files than people in plaintiff's lab, because they would know that doing so would be considered professional misconduct. Also, plaintiff did not know members of CSEHELP well, so he did not believe they would have a reason to be curious about his activities.

77. On or around March 31, 1995, plaintiff created such a profile describing himself on his computer at home. Plaintiff then transferred the profile, in Postscript electronic format, to computers in the CSE Department at UCSD. Plaintiff soon after went to the CSE Department and printed the profile on the printers in the CSE Department. As soon as the profile had been printed, plaintiff erased the computer file containing the profile from his account on CSE computers.

78. On or around September 16, 1995, plaintiff created a second updated profile on his computer at home. Plaintiff transferred the profile, in Postscript electronic format, to computers in the CSE Department at UCSD. Plaintiff soon after went to the CSE Department and printed the profile on the printers there. However, this time, plaintiff forgot to erase the computer file. Some time later, plaintiff estimates at least a week, plaintiff noticed the computer file was still on his account. This alarmed plaintiff, so plaintiff checked the file and verified that it was readable only by the owner, so only plaintiff and CSEHELP should have had access to the file (unless there was a security breach). Plaintiff was relieved by this and erased the file.

79. Plaintiff is informed and believes and thereon alleges that on or around March 31, 1995, one or more members of CSEHELP, read and viewed (and possibly electronically copied and/or printed) the contents of plaintiff's private computer file containing the first profile in electronic format. Plaintiff is informed and believes and thereon alleges that there was no legitimate reason for the contents of his private file to be read and viewed by a member of CSEHELP.

80. Plaintiff is informed and believes and thereon alleges that on or around September 16, 1995, or the following week or weeks, one or more members of CSEHELP, referred to as DOES, read and looked at (and possibly electronically copied and/or printed) the contents of plaintiff's private computer file containing the second profile in electronic format. Plaintiff is informed and believes and thereon alleges that there was no legitimate reason for the contents of his private file to be read and viewed by a member of CSEHELP.

81. Plaintiff is informed and believes and thereon alleges that in both cases where the contents of plaintiff's private file were read and viewed, one or more members of CSEHELP disclosed their knowledge of the contents of the file and perhaps provided a synopsis or electronic copy of the file. Plaintiff is informed and believes and thereon alleges that the first disclosure, on or around March 31, 1995, was originally made to students in the CSE Department but then spread throughout the CSE Department and later throughout UCSD and San Diego.

82. Plaintiff is informed and believes and thereon alleges that the intrusions and disclosures lead to gossip within the CSE Department and UCSD (and beyond). Plaintiff believes this gossip made the private information obtained about plaintiff, and other related private information and speculation about plaintiff, known to a large number of people. This embarrassed plaintiff and damaged plaintiff's reputation with students, faculty, and staff at UCSD, and many people outside of UCSD. Since plaintiff was not aware that the intrusions occurred although this information had

become well known, the damages to plaintiff were much worse than they would have been had plaintiff been aware, because plaintiff was unable to attempt to mitigate the damages or defend himself. In effect, what was perhaps plaintiff's greatest weakness and source of anxiety and embarrassment was put into the limelight, first without him being aware of it and later with only his partial awareness. Also, plaintiff believes that attempts to cover-up the intrusion made the situation and information much more interesting and damaging than it would have been otherwise.

83. Plaintiff is informed and believes and thereon alleges that a conspiracy was formed by employees of UCSD to prevent plaintiff from suing defendant UCSD for invasion of privacy. Plaintiff suspects that the conspiracy began sometime during Fall Quarter 1995, after knowledge of plaintiff's second profile had spread to members of the CSE Department. Plaintiff believes the conspiracy was formed because faculty and officials at UCSD realized that plaintiff had cause for a lawsuit for invasion of privacy, and worried that such a lawsuit would reveal the existence and nature of the aforementioned cover-up.

84. Plaintiff is informed and believes and thereon alleges that in furtherance of the conspiracy, the conspirators intentionally attempted to "setup" plaintiff in situations that would embarrass him about the dating service and his dating, because conspirators believed this would discourage plaintiff from investigating or later filing a lawsuit. Plaintiff was totally unaware of the existence of such a conspiracy at the time most events described here occurred, and believed the events listed here were coincidental. These events represent one successful "setup" that was sufficiently wrongful to mention. Most damage was caused not at the time, but later when plaintiff realized that these events, along with many other events, indicated that most people plaintiff knew at UCSD had been actively or passively conspiring against him behind his back since sometime in 1995, if not since May 1994.

85. Sometime in late 1995 or early 1996, plaintiff set up a first date with a woman he met via the dating service. The woman specifically suggested a restaurant/bar in downtown La Jolla called Jose's, although she lived in Coronado. Plaintiff agreed to meet her there and showed up on time, but she did not show up. While waiting for an hour or so, plaintiff looked around the restaurant for women who looked like her, in case she was there and did not recognize plaintiff. Specifically, plaintiff remembers looking for awhile at a brunet woman who looked like his date and was sitting with an attractive blond woman and another man who appeared to be with the blond. When plaintiff returned home, he found a message from his (rude) date on his answering machine. On the message, she said she was doing something with her female friend and now realized she could not make it on time, but might be able to meet plaintiff later if he calls back. The message was left at about the same time plaintiff was supposed to meet her at the restaurant.

86. A month or more later, plaintiff went to the birthday party of a graduate student in his class named Chris Vogt. At least a half-hour after plaintiff arrived at the party, a brunet woman who plaintiff believes was the same woman he saw at Jose's arrived at the party. Within a short distance of plaintiff, which made it almost certain he would overhear, she told other people at the party that she had seen a guy before at Jose's, and plaintiff believes she referred to him. She said plaintiff had stared at her at Jose's. She further said she had been a Jose's with a friend who was an attractive blond and the blond's date, and wondered why plaintiff had stared at her because her friend was more attractive.

87. Later, while at a beach party for the CSE Department, another graduate student in plaintiff's class, Paul Tucker, commented to plaintiff that he makes sure he looks away before women notice he is looking at them.

88. Then, in October or November 1996, plaintiff received two (or more) calls from people he did not recognize that referred to "Jose." One call was from a man

who asked for "Jose" and the other was a woman jokingly saying "Jose's" or "Jose" a few times.

89. On September 3, 1996, plaintiff first investigated the gossip that he believed must have spread throughout the CSE Department, and probably in the Visual Computing Lab. Plaintiff's intent at that time was to find out what was going on so plaintiff could implement damage control by refuting or admitting to the gossip, as appropriate, and put it behind him. He asked Karan Bhatia, a graduate student in the CSE Department, about the nature of the gossip about plaintiff. Plaintiff, at that time, believed Bhatia must have known about the gossip, and suspected he knew about the dating service since May 1995. Bhatia simply said that graduate students thought plaintiff "did not have a life," but said this was not unusual for a graduate student and asked plaintiff why students would care about plaintiff. However, he did suggest that plaintiff ask defendant Ramesh Jain or Deborah Swanberg but the comment seemed slightly sarcastic because plaintiff remembers he was not sure at the time whether to take it literally, but plaintiff took it literally at the time. Deborah Swanberg was defendant Ramesh Jain's most senior graduate student and, at that time, his most loyal proponent. Bhatia said that "terrible things" happen in the CSE Department, and that David Hutches, a previous member of CSEHELP, knows about it because of his job. When plaintiff said he did not believe Bhatia's denial of the gossip and did not want to have anything to do with people in the CSE Department if they would not tell the truth, Bhatia advised plaintiff to "avoid confrontation," although plaintiff did not understand what he meant by that at the time. Plaintiff now suspects that Bhatia warned plaintiff to "avoid confrontation" because he anticipated retaliation from anyone who directly or indirectly or even unknowingly confronted the administration about the cover-up, and mentioned Ramesh Jain and Deborah Swanberg because they were directly involved in or responsible for the cover-up.

90. In almost all discussions after that, plaintiff was stonewalled, and people denied or refused to provide any additional information related to the invasion of privacy claim. However, nonetheless, plaintiff gradually realized that more and more people were probably involved besides graduate students and faculty in the CSE Department and in the Visual Computing Lab. On October 2, 1996, plaintiff realized that staff members at the Dermatology Clinic at UCSD Student Medical Services were somehow involved. The seemed to know people were lying to plaintiff and seemed afraid of a lawsuit because they did not take plaintiff's pulse and blood pressure before he was given a blood and urine test on September 31, 1996. Plaintiff later found out his new roommate was involved and soon after that his parents were involved. In the last months of 1996, plaintiff also saw email on an Internet mailing list primarily for CSE undergraduates that seemed to relate to plaintiff's situation. Discussion related to the "Flight 800 Conspiracy" and about how some CSE students have trouble meeting women. Later, two graduate students in plaintiff's lab told plaintiff they thought he might be suicidal, although plaintiff did not think he seemed suicidal. Later, in early 1997, a Deborah Swanberg, a student of Ramesh Jain, told plaintiff that she would not tell plaintiff anything even if plaintiff threatened suicide. At the time, plaintiff thought the students thought plaintiff might be suicidal because of the distress caused by the situation and the other suicide by the student in the CSE Department, but, looking back, they were obviously hinting to plaintiff about the "suicide."

91. Plaintiff is informed and believes and thereon alleges that in October, November, and December 1996, defendant UCSD had plaintiff (mostly unknowingly) under surveillance and directly or indirectly conspired with people and organizations in San Diego to harass plaintiff and prevent plaintiff from finding a lawyer or pursuing a lawsuit. Plaintiff specifically notes the following experiences that indicate surveillance or a conspiracy or both.

92. Plaintiff noticed an Afro-American "homeless" person who spent months nearly always sitting on the south side of La Jolla Village Drive east of La Jolla Village Drive and Regents. The location was perfect for surveillance because it allowed the "homeless" man to see the intersection that plaintiff almost exclusively used when leaving his apartment to go somewhere other than to the UCSD campus. At first, plaintiff believed the man was mentally ill because he acted strangely when plaintiff saw him, but later, after plaintiff was well aware of the surveillance, the man seemed normal when plaintiff saw him purchasing food at a nearby grocery store. Plaintiff also noticed that he had his own trashcan that appeared to only be present when he was there.

93. Plaintiff also noticed another "homeless" man that plaintiff believes he saw both by plaintiff's father's office in Denver, Colorado, and later a few blocks from plaintiff's apartment in La Jolla, California.

94. In November and December 1996, plaintiff noticed that people plaintiff had not met before at different locations around San Diego such as a coffee shop, a fast food restaurant, a computer store, and a local privacy resource center, kept making comments or insinuations that seemed to be prompted or targeted at plaintiff about being paranoid and even about believing in "aliens." Plaintiff did not understand this at the time, and thought that word might have spread that plaintiff was paranoid.

95. On a Friday night in November 1996, plaintiff was driving alone in downtown San Diego, when he noticed a vehicle behind him that was driving in such a way that it was obvious that the vehicle was following plaintiff. Plaintiff drove near Police Headquarters between 14th and 15th and E, and parked about 10 yards in front of a police car. The vehicle stopped next to the police car and the driver appeared to talk with the police officer, and the officer drove away. Then the vehicle drove past plaintiff, so plaintiff followed it and was led onto I-5 and into Chula Vista until the vehicle made a U-turn, leading plaintiff to turn around in a dark side

street. Two women there, appearing to be prostitutes, walked up to plaintiff's car. Plaintiff waved them off and left, but found he had lost the vehicle. However, plaintiff suspected that other vehicles in the area were covertly following plaintiff.

96. Sometime in November or December 1996, plaintiff went to UTC Shopping Center to make phone calls because he suspected his apartment was bugged or wiretapped. Plaintiff called three attorney referral services in San Diego. The first two calls resulted in a referral to another referral service. The woman at the third referral service seemed to be trying to get plaintiff to tell her details of the case before providing a referral, although plaintiff said it was an invasion of privacy tort case. This seemed strange to plaintiff because it seemed like she only needed to know the general nature of the case. When plaintiff grew impatient and said he had provided plenty of information, she said she could not give plaintiff a referral. Then plaintiff returned to his car and noticed a hissing noise inside the car. Plaintiff investigated and found that his mini tape recorder that had been in his backpack in the locked car, had been set on play. Plaintiff believes he had been under surveillance and a member of the surveillance team must have done this in order to see if plaintiff had any evidence on the tape or to harass plaintiff or both.

97. Plaintiff is informed and believes and thereon alleges that defendant UCSD directly interfered with plaintiff's selection of a roommate and thereby caused plaintiff to have a roommate who acted as a spy for defendant UCSD.

98. In June or July 1996, plaintiff's roommate since September 1993 left for her residency. In the last few months before she left, she seemed to avoid the apartment and she seemed to resent defendant UC Regents and plaintiff for some reason. The day she left, plaintiff said he thought something was wrong but did not know what it was. She told plaintiff he could contact her parents if something went wrong because plaintiff's parents did not live nearby.

99. Plaintiff interviewed roommates and agreed to room with another medical student. However, for some reason, the prospective roommate seemed to get cold feet and asked plaintiff, "Are you some kind of psycho?" Plaintiff was shocked by the question, and was certain nothing he said or did that would have provoked that, so he assumed someone had told him something. Later, the roommate said something had come up and he could no longer be plaintiff's roommate. Plaintiff again interviewed for roommates and found another roommate who was also a medical student. However, meanwhile, plaintiff was responsible for two months rent while the apartment was half-vacant, but "luckily" defendant UCSD never charged him.

100. In September 1996, shortly after John Kasawa, the new roommate, first moved in, plaintiff noticed that someone besides plaintiff checked the old messages on plaintiff's answering machine on two occasions. For that reason, plaintiff was suspicious of Kasawa, although he did not want to believe he was conspiring with defendant UCSD. As time went on, plaintiff grew more suspicious because Kasawa seemed to quickly understand plaintiff's problems although he should have known less than plaintiff. In November or December 1996, Kasawa gave himself away. When plaintiff told Kasawa about strange reactions he was receiving from people in the CSE Department, Kasawa said it was plaintiff's fault because he sent "crazy email," although Kasawa denied talking to anyone else about plaintiff's situation and plaintiff had never told him about any emails. Kasawa also made some comments to plaintiff about "coincidences" that in retrospect indicated that he was probably amazed that plaintiff did not see that what was happening to plaintiff was not just a series of coincidences. Being the innocent skeptic, plaintiff told him that although coincidences are themselves improbable, people often do not realize that it is likely that some improbable events will occur. Later, Kasawa commented to plaintiff that some people "would do anything" to get into medical school. Since Kasawa was

struggling with his classes and had previously been an undergraduate at UCSD (and all but admitted it), plaintiff strongly believes that defendant UCSD convinced him to be a spy and co-conspirator in exchange for admission to medical school.

101. In addition, before September 1996, a fellow student in plaintiff's lab, Don Kuramura, who lived nearby, went for months without a roommate, and then was very careful to pick a roommate he knew very well. Therefore, plaintiff believes defendant UCSD probably had planned to recruit a spy as plaintiff's roommate and that at least some people in the Visual Computing Lab were aware of this. Further, plaintiff suspects that this was not the first time defendant UCSD had done this. Later, in February 1997, when plaintiff mentioned his problems with UCSD, Don Kuramura just shook his head at plaintiff as though he thought plaintiff was stupid not to know. Later, on or around March 30, 1997, when Kuramura stopped by to pick up a mattress plaintiff sold to him, Kuramura looked closely at the automatic sprinkling systems in plaintiff's apartment. Plaintiff believes Kuramura did this to make fun of plaintiff because he knew that plaintiff had previously mentioned to students in the CSE Department that he suspected that the new fire alarm equipment installed by UCSD might be used for undetectable audio monitoring.

102. Plaintiff is informed and believes and thereon alleges that defendant UCSD recruited plaintiff's parents to join the conspiracy and attempt to discourage plaintiff from filing a lawsuit. Plaintiff first discovered this in late November or December 1996. Because of this, plaintiff could no longer trust his parents, so this had the effect of removing perhaps the only support system plaintiff had left to help him deal with the situation and thereby weakening plaintiff psychologically so he would not be able to pursue the lawsuit. Plaintiff knew this must be the case because they knew information about plaintiff's situation that they otherwise could not have known, and acted differently than

they would have otherwise acted. At least one of plaintiff's relatives, his uncle, must have known what was going on because he also talked to plaintiff and recommended giving up on a lawsuit. Plaintiff has noticed that his parents have been having a lot of "good fortune" lately. A month or two before plaintiff first noticed his parents were conspiring with defendant UCSD, plaintiff's father started a new job that doubled his previous salary. Plaintiff's mother was previously preoccupied by financial problems, but she no longer seems to be worried about that, although she recently bought a relatively expensive new house while being out of work. Further, she has recently started a new home business that seems a little suspicious because it, among other things, offers to teach clients to hide assets. Specifically, her new business card offers to show clients how to "protect any & all assets from any form of judgement," "... preserve your personal privacy," and "... set up off shore trusts and protect your owned property from liens and levies."

103. Plaintiff is informed and believes and thereon alleges that sometime in October or November 1996, plaintiff's backpack was borrowed and searched by agents of defendant UCSD. When plaintiff returned from lunch at a nearby cafeteria, plaintiff noticed that his backpack was missing. Cliff Phillips, the only other graduate student currently working in that lab, made comments to plaintiff that insinuated that he knew something about the disappearance of the backpack, and asked plaintiff if he were a suspected terrorist or something. In any case, plaintiff searched the cafeteria that afternoon and was unable to find his backpack at that time. However, when plaintiff stopped by the cafeteria at around 1 am that night, plaintiff found that there was "coincidentally" an employee sitting just inside the door of the cafeteria drinking something. That employee informed plaintiff that he had found the backpack that afternoon and that the backpack was in the cafeteria manager's office. Plaintiff saw what appeared to be his backpack sitting there with a piece of paper on it. The next day, plaintiff picked up

his backpack from the cafeteria manager. She said that the backpack had been searched in order to determine who owned it. Plaintiff found that the contents of his backpack were neatly organized, although they had previously been disorganized.

104. Plaintiff is informed and believes and thereon alleges that defendant UCSD hired defendants DOES to illegally monitor plaintiff in a number of ways and/or to perform acts that made plaintiff, and would make any reasonable person, believe he was being monitored. Regardless of whether plaintiff can prove that he has been monitored, the suspicions and reasons for suspicion are still mentioned here because acts by defendant UCSD have led plaintiff to suspect this, and these suspicions have caused plaintiff emotional distress. The allegations here are not intended to be exhaustive, but do describe the primary types of monitoring plaintiff believes or suspects have occurred.

105. Plaintiff believes defendants DOES employed directly or indirectly by defendant UCSD listened to plaintiff's phone calls and eavesdropped on what was said in plaintiff bedroom, based on circumstantial evidence. For example, sometime in November 1996, his mother suddenly became careful about what she said on the phone, so plaintiff was relatively certain that she believed the conversation was being overheard. Also, a woman working in the dermatology clinic offered to talk to plaintiff's mother to help her, but she had no reason to think plaintiff's mother needed this based on what plaintiff had told her. Plaintiff believes this information was obtained by listening to plaintiff's phone calls, although it could have been obtained by talking to plaintiff's parents, but plaintiff does not think his mother was involved at that time. Plaintiff also received a call from his mother that plaintiff believes was in reaction to something plaintiff had said while alone in his apartment. Further, when plaintiff asked Deborah Swanberg about gossip in September 1995, the only "gossip" she would tell plaintiff about was the fact that people thought it was strange that plaintiff talked to

himself while he worked, so he suspects she was indirectly trying to help plaintiff protect himself from eavesdropping. During the conversation described in paragraph 130 on January 29, 1997, Bhatia's friend commented to plaintiff that he never talks to himself when he is alone, as if he knew plaintiff did.

106. Plaintiff further suspects that members of the surveillance team wiretapped phones at other locations besides plaintiff's apartment, or at least they wanted plaintiff to believe this was occurring. In January, February, and March 1997 in San Diego, plaintiff noticed Pacific Bell vans seemed to be following him as part of the surveillance team, and at one time he saw two such vans sitting in a parking lot near Texas Street and I-8 as if they were being put on display for plaintiff. On at least one occasion, when using a pay phone near the intersection of Miramar and Eastgate Mall in February 1997, plaintiff noticed unusual clicking noises. On another occasion in March 1997, shortly after plaintiff went into a computer store to sell some memory chips, one employee using the phone told the other employee that his phone had a weak audio signal.

107. Plaintiff further suspects that he was visually monitored inside of his bedroom in his apartment at Mesa apartments (operated by UCSD) on at least one occasion. Once in early 1997, plaintiff heard sounds from an adjacent apartment that seemed to be in reaction to something plaintiff did in his bedroom that only could have been sensed visually. Plaintiff also suspects that the contents of plaintiff's computer screen has been monitored since sometime in early 1997, probably by intercepting the video signals. On one occasion in early 1997 at Mesa apartments, plaintiff heard sounds from an adjacent apartment that seemed to be in reaction to something displayed on plaintiff's computer screen. People in the Visual Computing Lab also seemed to be aware of what plaintiff had typed in an email message that plaintiff neither sent nor saved, but this could have been obtained via network monitoring. Plaintiff has also noticed

reactions from surveillance operatives at plaintiff's current residence in response to plaintiff's computer use off the network that have happened too often to be coincidental (10-30 "coincidences"), although plaintiff does not have any physical evidence. For example, when plaintiff wrote that eavesdropping and monitoring was criminal activity, there seemed to be a reaction.

108. Also, plaintiff recently typed information about the fact that it seemed very coincidental that plaintiff's birthday was the same day as Julius Okopi's birthday and Jeff Casey's death, and that if Okopi's birthday was not, in fact, on that day, it would provide convincing and undeniable circumstantial evidence supporting plaintiff's story. Soon after plaintiff did that, there were numerous phone calls and activity in adjacent rooms that was very unusual, and plaintiff saw two people on his floor who seemed to be private investigators rather than typical residents (one carried a portable phone, probably digital). Plaintiff is still not certain whether Okopi's birthday is on that day, because the single information provider who would verify the birthday seems to be unreasonably and conveniently delaying plaintiff's other request for Jeff Casey's mother's phone number.

109. From November 1996 until August 1997, plaintiff spent a large amount of time, in total, at least 3 weeks of workdays in different cities, attempting to find a lawyer to take his case against defendant UCSD. Due to his experiences, plaintiff can only reasonably conclude that many lawyers and support staff and attorney referral services, contacted by plaintiff, knew that defendant UCSD did not want anyone to take the case. Further, they were probably either intimidated or compensated (or both), directly or indirectly, by defendant UCSD so they would discourage plaintiff from filing a lawsuit or avoid helping plaintiff. In fact, some people plaintiff talked to were so biased against plaintiff that he suspects they must have been compensated in some way by UCSD to act that way. In addition to paragraph

96, plaintiff had the following experiences that are most notable, although certainly not exhaustive.

110. In January 1996, after the overt surveillance had started, plaintiff stopped by for a consultation with an employment lawyer who worked near UCSD, and told him the general facts in paragraphs 72 through 82. The lawyer said he believed plaintiff had no case. He said he could research the law, but it would cost $1500. When plaintiff told him that a lawyer specializing in privacy seemed to think he had a case and asked why defendant UCSD would go though so much trouble to prevent the lawsuit otherwise, the lawyer suddenly became less sure and gave plaintiff a disclaimer that this was not his area of specialty.

111. Soon after, plaintiff contacted another employment lawyer working near UCSD. Although plaintiff wanted to talk in person, she would only talk to plaintiff over the phone. She seemed to sympathize with plaintiff but said she could not take the case and said finding a lawyer might "take some leg work." Plaintiff contacted a number of other employment lawyers in San Diego at that time, but none of them were interested in the case or did not return calls.

112. Sometime in January or February 1997, plaintiff drove to Los Angeles and called attorney referral services there in order to find a lawyer to handle an invasion of privacy case. The first two attorney referral services referred plaintiff to another referral service. Although plaintiff never mentioned anything about where he lived or who the defendant was, the third referral service told plaintiff that they only provide referrals for people within Los Angeles County and asked plaintiff if he was from Los Angeles County. Given the circumstances that plaintiff was calling from LA and had never previously contacted the attorney referral service, the person at the attorney referral service had no reason to believe plaintiff was not from Los Angeles County. Therefore, plaintiff infers that the referral service was probably contacted about plaintiff's case.

113. In January or February 1997, called two lawyers in LA he found by searching a legal directory on the WWW. They had written on privacy topics, but plaintiff later realized primarily handled defense cases. When plaintiff said he did not understand UCSD's response to plaintiff's attempt to file an Invasion of Privacy suit, the first lawyer said, "A lawsuit is not a way to search for the truth." When plaintiff told the other lawyer no one told him about the invasion of privacy, he said, "so, you have no friends." Plaintiff never told anyone about contacting these lawyers. A day or two later, plaintiff talked to Pat Kelly, a graduate student at UCSD in the Visual Computing Lab, and complained about the UCSD situation and asked for help. At the end of the conversation, Kelly laughed and told plaintiff he may want to avoid contacting defense lawyers.

114. In June 1997, plaintiff spent about two weeks in Hollywood trying to find a lawyer in the Los Angeles area. Most lawyers were not interested, but plaintiff attended a consultation with one lawyer and one law firm. The first lawyer insisted on recording the consultation, which seemed very unusual. He then read from a sheet of paper that he said was a transcription of what plaintiff said on the phone, but the "transcription" was not what plaintiff said and seemed to have been modified to make plaintiff sound paranoid. Plaintiff told him it was inaccurate and explained the situation. The lawyer said he was not a psychiatrist, so he could not know whether plaintiff was not paranoid, and said he could not take the case. Plaintiff believes this must have been designed to discourage plaintiff from filing a lawsuit.

115. At the law firm, plaintiff first attended a presentation on employment law. The lawyer giving the presentation talked about how it might be possible to settle a case for much more than it would be worth at trial if the defendant could not afford to go to trial. Plaintiff believes that the lawyer and law firm believed (or wanted to believe) plaintiff was trying to use the legal system for extortion, rather than as self-defense. Then plaintiff had a consultation that was

attended by a law student. This was convenient, since the law student was not a lawyer and therefore not legally bound to confidentiality. Although they seemed horrified at plaintiff's story, they said they could not take the case.

116. Also while in Los Angeles, plaintiff decided to again attempt to use an attorney referral service in Los Angeles, and instead of obtaining a referral, plaintiff was transferred to the mental health advocacy service.

117. Again in late July or August 1997, plaintiff called referral services in San Diego asking for a lawyer to handle a case relating to invasion of privacy and harassment due to a UCSD cover-up, but the referral services said they could not provide a referral for such a case.

118. After plaintiff filed the original complaint, he intended to find a lawyer to assist him. Plaintiff again contacted the attorney referral services, and was finally given what plaintiff believes was a serious referral from the San Diego County Bar Lawyer Referral Service. However, the attorney did not want the case, and no further referrals were given. Another referral service gave plaintiff a referral, but the person never returned plaintiff's phone calls. After a number of calls, plaintiff found two lawyers who claimed to be willing to take the case on a fee basis, but both seemed to be have knowledge of the situation with UCSD, but never disclosed where that information was obtained. The first lawyer was obviously playing games with plaintiff because he seemed to have outside knowledge of the case, he made offers for UCSD such as "they will pay your expenses, but nothing for emotional distress" and when plaintiff told him the police were aware of this, he suggested that the police would lie.

119. Plaintiff talked to another lawyer who offered to take the case first with a $5000 then a $10,000 retainer. However, when plaintiff had a meeting with the lawyer, he then changed his mind and refused to be retained (afraid of being disbarred?), giving the excuse that there was not enough evidence. Instead, he suggested that plaintiff investigate the

case first with an investigator from their law firm. Plaintiff, doubting anyone would act at that level of fraud and bad faith, retained the investigator, Howard Eisemann, for $2500. However, after about 2.5 weeks and another $500, plaintiff believes the investigator acted only to deceive plaintiff in order to delay and obfuscate plaintiff's work on the lawsuit and produced no useful evidence. During our last meeting, in reference to plaintiff's case, he ironically told plaintiff, "you have no proof," and then moments later denied saying it. Plaintiff suspects Eisemann (and defendants) attempted to enrage plaintiff via deception and fraud, so plaintiff would leave a threatening phone message (evidence of a crime used to silence plaintiff), because Eisemann suggested leaving phone messages after lying and obtaining additional money from plaintiff, and surveillance operatives where plaintiff lives made several comments that people who lie often steal. Because of the aforementioned evidence of misconduct and some circumstantial evidence, plaintiff suspects Eisemann also provided the defendants with confidential documents plaintiff provided to him. Finally, despite plaintiff's request about two weeks ago, Eisemann has not, as of yet, even returned plaintiff's own materials.

120. Plaintiff is informed and believes and thereon alleges that defendant UCSD has had plaintiff under continuous or nearly continuous surveillance since January 1997 when the surveillance first became overt and obvious to plaintiff and intruded into nearly every aspect of plaintiff's life. Plaintiff believes defendant UCSD is responsible because individuals employed by defendant UCSD knew of and were involved in the surveillance operation, although no one directly admitted it. Therefore, plaintiff knows that defendant UCSD is involved and associated with the surveillance operation, but is not certain defendant UCSD actually funded the surveillance. However, plaintiff believes it is the only reasonable conclusion, since plaintiff believes the surveillance and other related expenses must have cost on the order of millions of dollars, so it must have been funded by

very deep pockets. Defendant UCSD has approximately a billion-dollar a year budget, so could afford to spend millions if it could be "justified." Most of the time, plaintiff did not believe the surveillance presented any risk of physical harm (except physical harm created by emotional distress). However, it was certain to cause severe emotional harm because the surveillance was overt or at least obvious to plaintiff, continued for more than nine months while plaintiff was fully aware of it, interfered with plaintiff's search for employment, and was done to harass plaintiff and prevent plaintiff from filing a lawsuit rather than for a legitimate purpose.

121. By January 1997, plaintiff had come to believe that his apartment was bugged and his phone was wiretapped, and had been so for a while, based on circumstantial evidence. At this point, plaintiff also knew his roommate, his parents, and many individuals he knew at UCSD were lying to plaintiff and conspiring against plaintiff to prevent a lawsuit. This made plaintiff secretly decide he had to leave his apartment and UCSD, go somewhere else, hopefully find a lawyer, and start over. At about midnight on January 6, 1996, plaintiff drove north on I-5. After passing Los Angeles, plaintiff's tire blew out (coincidence?), but the next day, after repairing it, plaintiff continued to Oakland, CA. Apparently, the fact that plaintiff left without any indication he was leaving caused defendant UCSD to worry, because a few days later, the surveillance increased to a very large surveillance team that was completely overt. On January 8, 1996, plaintiff first noticed that he was being shadowed by a large team of between 10 and 40 people. The overt surveillance continued throughout plaintiff's time in the bay area and for a few days after he returned to San Diego on January 13, 1996.

122. For example, on or around January 8 or 9, 1997, at night in downtown San Francisco, plaintiff spotted three white vans parked together illegally in an alley that were very suspicious. Two contained electronic equipment that

plaintiff suspected was designed for wiretapping, etc., and both had detailed street maps in the front seat. Plaintiff attempted to call the San Francisco parking number in order to get the vans towed, and also called the police and told them he had been under surveillance and had found vehicles he believed were involved. Meanwhile, people from the surveillance team kept walking and driving by. One Asian man who appeared to be an operative drove by in a car at least three times and had a worried expression on his face. When plaintiff asked to use the phone in a shoe store next to the vans, the store gradually filled five or more surveillance operatives, and eventually the employees in the store told plaintiff to leave because they did not want to get involved. No parking authorities stopped by to tow the vehicles. Plaintiff noticed one police car drove by but the San Francisco police told plaintiff it was a parking problem (not a police problem). Eventually, the owners of the vans stopped by and drove away. They said they had been installing audio equipment in the Nike Town under construction, but the story seemed very unlikely in part because it was 8pm at night. Some young people left the Nike Town, but plaintiff believes members of the surveillance team just picked the locks, entered and then pretended to leave. Other operatives plaintiff saw at the front of the store made comments that made plaintiff believe they also did not think the story was believable.

123. On or around January 10 or 11, 1997, plaintiff stopped by UCSF and Golden Gate Park. Plaintiff decided to hide in Golden Gate park at night in order to temporarily lose the surveillance team. While plaintiff was hiding behind a tree next to the road, he watched more than 10 vehicles looping through the streets of the park for an hour or more after 8pm. There would normally be no reason for so many vehicles to be driving in the park after dark because streets were only used for access to the park. Also, while walking to the park, plaintiff noticed a few vehicles blatantly parked on the sidewalks, as if surveillance personnel had quickly

abandoned their vehicles. Plaintiff saw one person who was probably a surveillance operative laugh at one such vehicle.

124. Plaintiff never managed to find a lawyer in that trip to the bay area because surveillance operatives continually distracted him and were present whenever he attempted to make a phone call. Plaintiff took a picture of one middle aged male surveillance operative who plaintiff had seen in three different places and who had been in the area when plaintiff wanted to make a phone call with privacy. Later, plaintiff noticed one female surveillance operative in two or three unrelated places with different hair colors. On January 12, in the afternoon, plaintiff specifically remembers she was looking at newly developed pictures of her cat while pretending to be a Radio Shack employee at store number 132902 in San Leandro, CA. Plaintiff is sure of the date and location because he made a credit card purchase there. Plaintiff also noticed another operative he saw in a number of different places who shaved her hair as a disguise.

125. On or around January 14, 1997, when plaintiff first visited UCSD and the Visual Computing lab after his trip, plaintiff noticed some children he recognized being given a tour of the Visual Computing Lab by Ted Carson, a CSE graduate student who had been working in the lab. Plaintiff saw the children a few days before walking in Golden Gate Park in San Francisco at night amid the surveillance activity described in paragraph 123. After the children left, Carson walked up to plaintiff and said, "Are you all right?" and looked at plaintiff as though he thought plaintiff were disturbed. Plaintiff was disgusted and mimicked Carson's act, asking him the same thing, and then attempted to discuss the "sickness" of the situation with Carson. Later, Carson commented to plaintiff that this was a case of "escalation," seeming to refer to a book called *The Fifth Discipline* by Senge that plaintiff had previously recommended to his adversaries in an email sent to defendant Ramesh Jain on December 26, 1996. While leaving on the elevator, plaintiff saw men he believed were also involved in the surveillance

there. However, Jeff Boyd, a visiting scholar from the Visual Computing Lab said hello to one of the men and later Boyd told plaintiff he had met the man recently at the ECE Christmas party, knowing that plaintiff would not have attended the party.

126. Because of my trouble with defendant UCSD, plaintiff asked defendant Ramesh Jain who he should talk to at UCSD. On or around January 20, 1997, plaintiff set up a meeting and talked to Adel Bynum from the Office of Graduate Studies and Research. Plaintiff explained the fact that his computer files had been read and that he had been put under surveillance. Although she denied knowledge of this, plaintiff overheard her say "nothing new" on the phone.

127. She recommended that plaintiff talk to John Giebink, director of Psychology and Counseling Services at UCSD, supposedly in order to help plaintiff make future plans. On or around January 22, 1997, plaintiff talked to Giebink, but the discussion was not useful, and he, of course, said he did not believe plaintiff was under surveillance and said he had never heard of the university doing such a thing.

128. In the morning on January 24, 1997, plaintiff talked to Jeanne Ferrante, chair of the CSE Department, and Adel Bynum. Plaintiff explained that he believed his computer files were read by someone from CSEHELP and told Ferrante about the recent surveillance. Ferrante recommended that plaintiff advance to candidacy to get a partial degree, and plaintiff believes she also said something about an apology and something that indicated to plaintiff that she was amused that plaintiff did not know what was happening at the time, but realized it later. However, Ferrante claimed that this was the first time she had heard about plaintiff's allegations because Bynum had not told her anything, and she offered to talk to CSEHELP and investigate. Plaintiff was so shocked by this denial that he left the meeting soon thereafter.

129. Plaintiff later talked to Bynum on the phone and she said that she did not personally agree with what had been

done. However, when plaintiff later corresponded via email, Bynum reverted to the official story and wrote, "I still believe that you have some "feelings" to sort through related to what you say happened or is happening to you. Perhaps, you should have a follow-up meeting with J. Giebink. I firmly feel that the "talks" will help you sort "things" through." In response to plaintiff's plea to Bynum to "do whatever you can to convince the administration to avoid or prevent this type of situation in the future," she responded that she does not know of anyone in the administration that does not care for the "well being" of students. Plaintiff believes that her response would have been more accurate if qualified by adding, "unless it interferes with their own well being."

130. On January 29, 1997, plaintiff had dinner with Karan Bhatia, a CSE graduate student mentioned in paragraph 89, and his friend who was a Ph.D. medical student. During the dinner, plaintiff chose not to talk about anything, but afterwards came back and talked to them. When plaintiff explained the story, they claimed they did not know anything about it, but Bhatia did say, "It couldn't have been David Hutches." They did tell plaintiff a story about another UCSD employee who had found a lawyer and filed a wrongful termination lawsuit and that maybe he really was crazy. They recommended that plaintiff see a psychiatrist in order to prove he is not crazy because it could be useful for the lawsuit. However, when plaintiff said he was did not think he could trust a psychiatrist, they told him that a psychiatrist would probably not intentionally misdiagnosis plaintiff because it could damage their reputation. Further, they advised plaintiff that a lawsuit was probably not worth it, and that defendant UCSD would just settle the lawsuit.

131. Sometime in January or February 1997, plaintiff saw an advertisement in the Price Center at UCSD, a place plaintiff frequented, entitled "Show Me the Money," which stated that it was possible to make up to $400 a week doing easy work and provided a phone number. Plaintiff had overheard suspected surveillance operatives who were the

age of college students say "Show Me the Money" on at least two occasions before, so plaintiff suspected that students may have been hired by using this ad. Plaintiff called the phone number and heard an automated message that provided no details of what the work was, but asked to leave a name and phone number. A week or so later, plaintiff noticed that the paper with the phone number had mysteriously disappeared and was never found. Plaintiff believes the paper was stolen, although it is possible albeit unlikely that plaintiff lost the paper.

132. In February 1997, plaintiff father and defendant Mariana H. White, kept suggesting that plaintiff see a psychiatrist, and they provided a list of names of psychiatrists in the area. However, plaintiff refused because he believed that defendant UCSD was probably trying to "prove" that he was paranoid or delusional. Both of plaintiff's parents also asked plaintiff, "Are you sure you are under surveillance?" Plaintiff told them that he was as certain as he is certain he was talking to them at that moment. Eventually, plaintiff told his parents that he did not want to speak with them anymore. Plaintiff's mother said he was planning to come visit on or around February 22, 1997, and later said that she had scheduled a plane flight. Plaintiff told her that she was not welcome and told her not to come.

133. The whole situation at UCSD with surveillance, suspected monitoring of his apartment, his roommate and everyone else probably conspiring against him, and his parents telling him see psychiatrists, was difficult of plaintiff to take and caused him to yell and beat on walls to relieve stress. His roommate even complained to plaintiff about it. Plaintiff did not like the way he was acting and decided it was best if he just left to preserve his sanity and to avoid seeing his mother who had betrayed him for defendant UCSD. So, on the morning of February 22, 1997, plaintiff left planning to drive to the East Coast, find a job there, and grab his belongings later. Plaintiff drove up through Los Angeles, and then headed east on I-40 driving more than 20

hours straight through past Oklahoma City, Oklahoma. Throughout the trip, plaintiff noticed that the surveillance continued although it seemed to decrease in size compared to San Diego. By the time plaintiff reached Missouri, plaintiff was calm again because of the driving and because he had left UCSD, and stopped and thought about the situation. He decided that he probably should not run away from the problem because he was afraid it could happen to someone else, and he did not want anyone else to go through the same hell. Therefore, plaintiff decided to drive back, but went north first to Kansas City, Kansas, and then west on I-70.

134. On the evening of February 24, in Junction City, Kansas, plaintiff was stopped by a police officer there and given a ticket for going through a stop sign. Plaintiff was tired and almost out of gas and was looking for a gas station. The area was deserted, so plaintiff probably just missed or ignored a stop sign when turning his car around to get back on the highway. Because of comments the officer made to plaintiff and the fact that plaintiff seemed to amuse him, plaintiff was certain the police officer knew something about plaintiff's situation. He commented that people in California have a strange way of dealing with problems, and mentioned that police officers are also put under scrutiny. He asked to search plaintiff's vehicle and asked if plaintiff had a gun. Although plaintiff knew he could refuse, he consented to the search as an act of good faith to show the officer (and the surveillance team) that he had nothing to hide. The officer took full advantage and searched plaintiff's trunk and backpack, and for some reason also seemed to be interested in finding plaintiff's film.

135. On or around February 25, 1997, plaintiff arrived home and found that his mother, defendant Mariana H. White, had moved into his apartment and taken over his room and desk, despite the fact that plaintiff said she was not welcome and that she should not come. She said that she was given a key by people at Mesa Apartments. Mesa Apartments are operated by defendant UCSD. Plaintiff

found that all the papers on his desk had been removed, and his mother later explained that she had cleaned it up for him. When plaintiff first walked in, she acted as if she was disturbed and worried about plaintiff, and immediately told plaintiff he should see a psychiatrist. Plaintiff's mother said that plaintiff would get "relief" if he would just see a psychiatrist and take medication for a few weeks. He said that the psychiatrist used to be a professor at UCSD and wanted to help plaintiff get out of this situation. She also had documentation on paranoid schizophrenia, and said she had talked to other parents whose children had gone through similar problems.

136. Plaintiff was so tired of harassment by UCSD that he decided to try going along with it. On or around February 27, 1997, plaintiff had one or two appointments with a psychiatrist named Dr. John Otis whose office was across the street from plaintiff's apartment complex. Dr. Otis told him that he could either take medication on an outpatient basis or that he would have to be "hospitalized." Although plaintiff told Dr. Otis he did not believe he was neither mentally ill nor needed medication, plaintiff took the medication he prescribed because he wanted this to end. Once, while waiting in Dr. Otis' office, plaintiff overheard a woman in the reception room say, "Does he know?" Unfortunately, the medication made plaintiff extremely drowsy and difficult to think clearly. A few days after starting the medication, on or around March 3, 1997, plaintiff had had enough because he was unable to function, and stopped taking the medication.

137. On or around March 4, 1997, plaintiff felt much better, and went into the Visual Computing Lab to do some work. When he arrived there, two graduate students, Andy Tai and Patrick Kelly, were there. Plaintiff told them that he had seen a psychiatrist and they had made him take medication, but that he just refused to take the medication and is now feeling much better. Soon after plaintiff said that, Kelly left the lab quickly. Plaintiff then did some standard work in the lab, talked briefly with Tai, and did nothing else

unusual. When plaintiff went back to his apartment, his mother told him that a student had complained about plaintiff's conduct at the lab, and that because of that, plaintiff was no longer allowed to work in the lab. Ever since plaintiff stopped taking the medication, plaintiff's mother also kept encouraging plaintiff to drive with her to see Mesa Vista Hospital or to drive to that area. Plaintiff refused because it was obvious they wanted to hold him there.

138. On March 5, 1997, plaintiff went to get a haircut on his own, leaving his mother in the apartment. When plaintiff returned, plaintiff found a UCSD police car parked in the parking lot. When plaintiff saw the officer and his mother there, he originally walked back towards his car in order to leave, but his mother, defendant Mariana H. White, told him to come back. Plaintiff's mother then put on an act as plaintiff was suffering from a mental disorder, but plaintiff was much calmer than his mother was. Plaintiff stated that he would not leave with the officer voluntarily, but would not resist either. Therefore, plaintiff's mother, defendant Mariana H. White, and the officer proceeded to have plaintiff's pockets emptied. Plaintiff was then handcuffed and later locked in defendant Martinez's police car. Defendant Tommy L. Morris arrived in another police car arrived around the time plaintiff was locked in the police car. While plaintiff was handcuffed and sitting in the police car, plaintiff noticed that Karan Bhatia "coincidentally" walked by, but did not wave and was expressionless. Plaintiff was then driven to Mesa Vista Hospital in the police car by defendant Martinez, and escorted into the section reserved for involuntary treatment, and strip-searched.

139. When plaintiff was checked in, the reason for involuntary detainment, given by a member of the Mesa Vista Hospital staff, as a 5150 was supposedly that plaintiff was "gravely disabled." In this situation, since plaintiff had not been accused of a crime, "gravely disabled" is defined as, "A condition in which a person, as a result of a mental disorder, is unable to provide for his or her basic personal

needs for food, clothing, or shelter," in Welfare & Institutions Code § 5008(h)(1)(A). This classification of plaintiff was incorrect and could not have been based on plaintiff's behavior. In fact, plaintiff had just gone to get a haircut, and was arrested after driving his car back to his apartment alone. In addition, since plaintiff's mother was a registered nurse and had no other responsibilities at that time, she could have easily cared for plaintiff if he had truly been "gravely disabled." Therefore, plaintiff was hospitalized without probable cause, and therefore in violation of Welfare & Institutions Code § 5150.

140. When plaintiff explained to a staff person at Mesa Vista Hospital that he had actually been detained because of an invasion of privacy lawsuit, they seemed surprised that that was all plaintiff had done. Later, when plaintiff was examined by Dr. Tecca, a non-psychiatric physician, the physician commented to plaintiff that he was probably one of the healthiest people there (including the staff).

141. It was clear from comments made during plaintiff's stay and the medical records that employees of Mesa Vista Hospital were aware that plaintiff was not, in fact, "gravely disabled," and that there was no reason for plaintiff to be there. However, but nonetheless they willfully and knowingly kept plaintiff in the locked facility, and discouraged plaintiff from exercising his legal rights to a Writ of Habeas Corpus. When plaintiff did request a Writ, plaintiff was released the day before the hearing.

142. Plaintiff was detained at Mesa Vista Hospital involuntarily under the supervision of defendant Dr. John Otis for a total of 6 days. There, Dr. John Otis prescribed different medication than previously, but it had the same effect of making plaintiff very drowsing, so that he felt uncomfortable even sitting up in a chair, and made it difficult for him to think clearly. After 4 days, plaintiff realized that he could refuse to take medication, so he stopped taking the psychiatric medication (but continued taking the tetracycline for his acne). Plaintiff also requested a Writ of Habeas

Corpus, although the staff there discouraged plaintiff from doing it because they preferred to handle it with an "internal hearing." If plaintiff had not requested the judicial review, plaintiff had been told the plan was to hold plaintiff involuntarily for another 14 days pursuant to Welfare & Institutions Code § 5250. Shortly after plaintiff had requested judicial review, some fellow patients, who plaintiff now suspects may not have been real patients, commented that plaintiff was "smart." When it was clear plaintiff would definitely go through with a judicial review, Dr. John Otis agreed to release plaintiff from the facility.

143. When plaintiff arrived home on March 11, 1997, he found that most of plaintiff's belongings in the apartment had been packed into boxes. The official explanation was that his mother had done the packing, but plaintiff does not know what really happened. The papers from plaintiff's desk were returned to plaintiff in a box from a Kinko's copy shop. The Kinko's box did not belong to plaintiff. Given this evidence, plaintiff believes that either his personal papers had been copied or that conspirators wanted plaintiff to think they had been copied or both. In addition, plaintiff's mother also developed some of plaintiff's film without asking plaintiff for permission while plaintiff was imprisoned in the mental health facility. Plaintiff believes this was done in furtherance of the conspiracy in order to determine whether plaintiff had any useful evidence, and wonders whether incriminating photos were discarded.

144. The plan that defendant UCSD had made for plaintiff was apparently to leave San Diego and move in with one of his parents, and look for a job there while under observation by one of his parents, apparently so that his mother or father could make sure plaintiff did not engage in activities prohibited by defendant UCSD such as filing a lawsuit. However, plaintiff refused to live with his parents, so plaintiff told his mother that he would agree to stay away from campus and would pack his belongings and move away. Since then, plaintiff has disowned his parents, for obvious

reasons, although plaintiff will probably maintain some contact with his siblings.

145. Plaintiff spent the next few weeks selling his furniture, repacking all his belongings, and getting ready to move. At the end of the March 1997, plaintiff put his belongings in storage, left to move to San Jose to look for jobs in the Bay Area.

146. However, the surveillance continued in San Jose. By the time plaintiff had left, he was nearly certain at least three of his neighbors in the building were working as spies: Jack Beckman, Wayne Musgrave, and Andre Stevens. Jack Beckman called it "cannibalism" the day before plaintiff left. Plaintiff also met a man named Donald Knipschield at a Starbucks in downtown San Jose. He said he was a professional journalist, but was obviously an operative sent by defendant UCSD. In conversations with him, it seemed like he and other operatives were indirectly telling plaintiff that his advisor, defendant Ramesh Jain, was getting "protection from the top" for "conflict of interest" violations, and that defendant UCSD did not want a lawsuit because it would reveal these violations. However, plaintiff doubted the story because he doubted they would tell him the truth. Later, in early July, plaintiff did some legal research and determined that conflict of interest is only a minor offense for university professors so it would not provide sufficient motive for the "protection."

147. In the first week after arriving, plaintiff traveled to Portland to go to an on site interview with Intel. The last interview of the day, with someone from another group doing work similar to academic research, seemed the most interesting. Therefore, plaintiff was invited for another interview with the other group. Two or three weeks later, plaintiff interviewed with them, and plaintiff was definitely interested in the job. However, plaintiff was also almost certain they were in contact with UCSD. First of all, plaintiff saw a female operative that he had seen before at a conference leaving Intel at the same time he arrived for the

interview. Also, his prospective future boss, prospective future coworkers, and old boss seemed to know about the situation with defendant UCSD. Eventually, plaintiff did receive a job offer from Intel, and decided to accept the offer.

148. While plaintiff was waiting for the offer, in early May 1997, plaintiff found a short term consulting job at Pacific Bell Mobile Services. Plaintiff suspected it had been arranged by defendant UCSD from the beginning, but became more certain the longer he worked there. People in adjacent cubicles seemed to have conversations relating to topics related to plaintiff's situation such as lawsuits, although plaintiff never explained his situation. Plaintiff's boss talked to a coworker in accounting about a problem with mysterious revenue coming from the San Diego area. Plaintiff's boss and coworker also seemed to know more about plaintiff's situation than they should have known. However, plaintiff did not bother to ask anyone about it, because they would just deny it.

149. A few weeks before plaintiff left San Jose, on May 16, 1997, plaintiff found that his belongings had been thrown on his bed, and the answering machine had been turned off. When plaintiff talked to the manager and other people who worked there, they seemed to expect plaintiff and they said they had done it in order to shampoo plaintiff's carpet. However, the story did not fit, because they did not normally clean on that day, no one else had a carpet cleaning, and the carpet behind the plaintiff's chairs was not clean, although his belonging had been moved away from that location. Also, one of plaintiff's neighbors seemed to know all about it and expect plaintiff. The only reason this would be done was to harass plaintiff.

150. On or around early June 1997, plaintiff left to move to Portland, OR, for the Intel job. However, after talking to two women who helped plaintiff with relocation and finding an apartment, it was clear that they had both been contacted by defendant UCSD. At this point, plaintiff realized he would likely end up in a situation like that at UCSD and

Pacific Bell Mobile Services where he was surrounded by "spies" and people were "harmlessly" conspiring against him. The problem was that this situation was not harmless for plaintiff, because it forced plaintiff to be paranoid. In order to protect himself, plaintiff could not trust anyone and would have to continually watch people to see if they were acting as spies, just in order have some idea what was really happening. Therefore, plaintiff decided that he could not risk moving and starting a new job in this situation, so plaintiff called Intel and told them he could not take the job.

151. In early June 1997, plaintiff then drove back to San Diego in hopes of finding a lawyer there while working part time. Unfortunately, plaintiff was greeted by 10-20 surveillance operatives wandering around at Costa Verda, and a former graduate student "coincidentally" showed up and made comments about the weird "society," and told plaintiff to give up on the lawsuit, and recommend that plaintiff get a job. Plaintiff then decided to give up on San Diego, and went to Hollywood, CA, to look for a lawyer from the Los Angeles area. Plaintiff spent more than two weeks there, but did not find anyone, although one lawyer sent plaintiff some useful information on appropriate law regarding psychiatrist abuse.

152. Plaintiff then decided to go back to San Diego and try to talk to people at UCSD to try to resolve this. At this point, plaintiff thought that the reason for the surveillance might be that defendant UCSD was trying to cover-up conflict of interest problems by defendant Ramesh Jain. Plaintiff asked defendant Ramesh Jain if this was the problem, but he just said, "See a psychologist." Plaintiff then talked to the head of the Conflict of Interest office at UCSD, and she told plaintiff to write a letter describing the harassment to also write down what he wants. After thinking about it, plaintiff realized that what he wanted was to get "justice" and punish the wrongdoer, so plaintiff reported the "conflict of interest" to different organizations, but they did not want to pursue the case. Therefore, plaintiff did some

research on it in the law library, and realized that while "conflict of interest" is serious for a government employee that handles government contracts, there are few restrictions on professors at universities because such restrictions could impede academic freedom to do research related to industry. Then, plaintiff realized that he had been purposely deceived about this, and that the deception had been going on even long before plaintiff knew about the possibility of a lawsuit. Once plaintiff realized this had been going on for two years, he considered that it could have been going on even longer and then considered the theory that the cover-up was related to the suicide. Unlike other theories, this theory provided sufficient motive, fit the facts perfectly, and even explained other things that had happened in the past that seemed suspicious or unusual.

153. Since then, plaintiff did his own investigation and then decided to pursue a lawsuit. Although plaintiff would have preferred to use a lawyer, he had not been able to find a lawyer who would aggressively pursue this, so he had filed this complaint in his own behalf.

154. Defendant Jain allegedly acted as a co-conspirator since the beginning and plaintiff believes his conduct was a partial or full cause for wrongful conduct of all defendants. Further, defendant Jain, ironically, acted as plaintiff's primary contact with defendant UCSD from October 1996 until February 1997. For that reason, defendant Jain had many opportunities to mitigate or eliminate the situation and resulting wrongful conduct, but chose not to do so, and kept plaintiff unaware of what was happening, so it was impossible to negotiate a solution to the problem, if such a solution existed. For example, in one meeting, probably in late 1996, plaintiff told defendant Jain, metaphorically, "There is smoke everywhere," and asked "Where is the fire…is there a single source or multiple sources?" Edna Nerona, his secretary, quickly left after overhearing plaintiff's comment. Instead of telling plaintiff something, defendants left plaintiff "suffocating and wandering in the

smoke" for more than 8 months, slowly putting pieces of the puzzle together, before seeing the "fire." Further, plaintiff remembers comments made by defendant Jain and lab members before September 1996, and perhaps even in 1994, that indicate that most of what happened to plaintiff was fully or at least partially premeditated, and seemed be to regarded with amusement. For example, there was talk or hints of plaintiff being mentally ill (without basis), of "conflict of interest," and a spy roommate at least by early 1996, and of mental illness perhaps as early as 1994. So, instead of finding an equitable solution for all parties, defendants apparently chose to attempt to exploit and deceive plaintiff while setting up a contingency plan to psychologically destroy plaintiff if necessary, that was subsequently implemented while plaintiff gradually became aware of the conspiracy. Defendant Ramesh Jain specifically acted in furtherance of the conspiracy by telling plaintiff to "see a psychologist" on a number of occasions, and mentioned that plaintiff "was not a team player." Since defendant Ramesh Jain acted as a co-conspirator, he can be held liable not only for his own conduct, but may be liable, as determined by proof at trial, for any or all conduct or actions performed in furtherance of the conspiracy.

155. The conduct of defendants in furtherance of the conspiracy caused plaintiff severe emotional distress over a period of months that was far beyond the level that any person should have to endure. The emotional distress also caused many physical symptoms such as physical pain, sickness, and loss of sleep.

156. At a direct and proximate result of defendants' conduct, plaintiff has suffered general damages and has suffered special damages such as lost wages in an amount to be determined by proof at trial.

157. Defendants' conduct was done knowingly, willfully, and with malicious intent, so plaintiff is entitled to punitive damages in an amount to be determined at trial.

Third Cause of Action
42 U.S.C. § 1983: First, Fourth & Fourteenth Amendments of the U.S. Constitution: (Conspiracy to Deter and Punish Exercise of First Amendment Rights Violating Fourth Amendment Rights.)
(Against Defendants Ramesh Jain, Richard Atkinson, Robert Dynes, Stephanie M. Martinez, Tommy L. Morris, Christine Urbina, S. Gill Williamson, Mariana H. White, John L. Otis, Vista Hill Foundation, & DOES)

158. The contents of paragraphs 1 through 157 are incorporated herein as if fully set out.

159. For the purposes of this cause of action, defendants employed by defendant UC Regents are sued only in their individual capacities.

160. Plaintiff is informed and believes and thereon alleges that defendants Richard Atkinson and Robert Dynes, when acting as Chancellors of UCSD (basically the CEO's of the campus), were responsible for the funding of various surveillance, monitoring, and miscellaneous harassment of plaintiff at least since the faked death in May 1994, but probably from the time plaintiff started graduate school. This surveillance and harassment was first designed to merely to prevent plaintiff from investigating wrongdoing and prevent others from telling plaintiff about the cover-up. Often this was accomplished by secretly conspiring to embarrass plaintiff so that he would not want to investigate the embarrassing topic, or by just secretly sabotaging plaintiff in order to intimidate everyone else who knew what was really happening. At the same time, conspirators created additional layers of deceit in order to obfuscate the original cover-ups. Once plaintiff finally began to investigate the apparent cover-up in late 1996 despite his embarrassment, the surveillance and harassment became more malicious because it was then designed to punish, obfuscate, and delay plaintiff in order to deter and retaliate against plaintiff for his pursuit a lawsuit against UCSD. For at least the last 1.5 years, plaintiff has been aware that he has been under surveillance when in

public (vehicular and otherwise) and monitored most of the time in various ways: monitoring of plaintiff's computer screen, sound, and, in some cases, video. Surveillance and monitoring such as this, that is obvious and intrudes into nearly every aspect of plaintiff's life, that serves no legitimate purpose except to retaliate against plaintiff to discourage a lawsuit or media exposure, and that lasts for more than a year, is certainly a violation of plaintiff's first and fourth amendment rights.

161. Due to occurrences described in paragraph 102, plaintiff states on information and believe that he has been and is currently being monitored in violation of California Penal Code §§ 630-637.5 (wiretapping, eavesdropping, etc.) and federal law, and that it was and is done by defendants DOES as agents of UCSD in furtherance of a conspiracy perpetuated by defendant Ramesh Jain and other defendants such as the UCSD Chancellors, defendants Richard Atkinson and Robert Dynes. In fact, defendant Ramesh Jain seemed to view this insidious invasion of plaintiff's privacy as a joke because his lab began doing research on "Visual Surveillance and Monitoring" and he even named one of his new labs the "Orwell Lab." In addition to being criminal activity under California law in the Invasion of Privacy Act, such activity is also a violation of the Fourth (and Fourteenth) Amendment of the U.S. Constitution when performed in furtherance of a conspiracy with a government entity.

162. Plaintiff is informed and believes and thereon alleges that defendants S. Gill Williamson, then chair of the CSE Department, and defendant Richard Atkinson, then Chancellor of UCSD, were responsible for implicitly or explicitly creating a policy whereby unknown DOES who were employees in the CSE Department at UCSD would search or view plaintiff's computer files in furtherance of the conspiracy to cover-up the faked suicide. In other words, they were responsible for establishing an implicit or explicit policy of doing illegal searches of plaintiff's files. Pursuant to this policy, the defendants DOES, one or more unknown

staff employees in the CSE department at UCSD, intentionally viewed plaintiff's private computer files (paragraphs 79 & 80), and disclosed the information so obtained (paragraph 80), on at least two occasions. This constituted an illegal search by a government entity in violation of at least plaintiff's fourth (and fourteenth) amendment rights. The intrusion was highly offensive to plaintiff because it was a sensitive and private issue for plaintiff because of the circumstances under which plaintiff joined the dating service, described above in paragraph 72. The intrusion was related to a private matter that was not available in public records and was not a matter of legitimate public interest (paragraph 72). Although the profiles illegally obtained could also be viewed by any person who had joined the dating service or someone visiting the dating service, a profile only provides the first name and age. The dating service, to protect the privacy of members, does not provide the identity of the person described in the profile without consent from the owner. Therefore, technically, the private information was not just the content of the profiles, but content of the profiles along with the fact that the profiles *referred to plaintiff* rather than an anonymous individual named "Dave."

163. In furtherance of the conspiracy, on or around February 25, 1997, defendant Mariana H. White initially convinced plaintiff to see defendant Dr. John L. Otis, a psychiatrist, and take antipsychotic medication by telling plaintiff that he would obtain "relief," which plaintiff believed meant that the overt surveillance and harassment initiated by defendant UCSD would stop. However, plaintiff soon refused to continue taking the medication because there was no need for it and it was making it impossible to think clearly and work. In response, defendant Mariana H. White told plaintiff he would be arrested and "hospitalized" against his will unless he continued taking the debilitating medication. Defendant Dr. John Otis had also previously threatened to "hospitalize" plaintiff unless he took

medication. The medical records indicate direct involvement of defendant UC Regents in the conspiracy, beyond the participation of the UCSD Police, since Dr. Otis stated on that medical records that plaintiff was referred to defendant Dr. John L. Otis by UCSD Student Health. Even though plaintiff had never recently consulted UCSD Student Health, so the statement was inaccurate, it still indicated direct participation by defendant UC Regents. Further, the medical records indicate that plaintiff was referred to Mesa Vista Hospital by the "UCSD Medical Center."

164. On March 5, 1997, defendants Stephanie M. Martinez and Tommy L. Morris, UCSD Police Officers, were responsible for putting plaintiff in handcuffs, locking plaintiff in a police car, and transporting plaintiff to Mesa Vista Hospital as stated in paragraph 138. This was done after plaintiff told defendant Stephanie Martinez said he would not go with them voluntarily, but also would not resist being arrested. Since there was no probable cause, or any cause whatsoever, for plaintiff's warrantless arrest, or at least *defacto* arrest, defendants Martinez and Morris falsely imprisoned plaintiff in violation of his fourth amendment rights (at least). Defendant Morris, although he did not himself handcuff or imprison plaintiff, was clearly actively participating in the conspiracy because he was present at the scene where these events occurred, spoke with defendant Mariana White and defendant Martinez while plaintiff was imprisoned in a police car, and held a supervisory role over defendant Martinez as a police sergeant.

165. Plaintiff was detained at Mesa Vista Hospital against his will from March 5, 1997 until March 11, 1997 as stated in paragraph 141 and 142, due to the conspiracy of the aforementioned people, who all knew it was done without probable cause or any cause whatsoever. Employees of defendant Mesa Vista Hospital and Dr. Otis, in furtherance of the conspiracy, were also responsible for violating Welfare & Institution Code § 5250(a)(d) by continuing treatment past the 72 hour hold period despite knowledge that plaintiff was

not "gravely disabled" and even if he were, his mother, a registered nurse, could have taken care of him outside the hospital.

166. Plaintiff is informed and believes and thereon alleges that Christine Urbina participated in the conspiracy by providing plaintiff's mother with a key to his apartment without his consent, thereby aiding plaintiff's mother in her efforts to discourage plaintiff to pursue a lawsuit from February 22 until March 10, and allowing plaintiff's mother to search plaintiff's apartment. Plaintiff never gave anyone permission to allow his mother in his apartment.

167. Plaintiff's mother primarily participated in the conspiracy by attempting to convince and eventually convincing plaintiff to see a psychiatrist based on claims that the university would provide plaintiff with "relief." Plaintiff interpreted "relief" to mean that the surveillance and harassment would end, but now plaintiff realizes that no one really intended to provide plaintiff with any relief because they did not believe plaintiff would keep the quiet about the cover-up even if they offered him money and/or guaranteed lifetime employment.

168. As stated in paragraph 135, defendant Mariana H. White entered and used plaintiff's apartment without his consent on February 22, 1998 until February 25, 1998. At the time of plaintiff's arrival in his apartment, defendant Mariana H. White had been given a key to plaintiff's apartment. Plaintiff is informed and believes and thereon alleges that defendant Christine Urbina was responsible for providing that key to Mariana H. White. Neither defendant Christine Urbina nor anyone associated with defendant UC Regents had not been given permission by plaintiff to allow his mother to have full (or even partial) access to his apartment.

169. As stated in paragraph 143, defendant Mariana H. White, and perhaps other DOE defendants, went through most of plaintiff's possessions in order to pack for a move while plaintiff was imprisoned at Mesa Vista Hospital. Many

of plaintiff's papers were returned in a Kinko's box, indicating to plaintiff that perhaps most of his papers had been copied and/or viewed without his permission, perhaps for use in a subsequent lawsuit. Due to this non-consensual intrusion while plaintiff was unlawfully imprisoned and medicated, plaintiff had to repack most of his possessions for his move because plaintiff did not even know where his possessions were stored in the boxes. The conduct of plaintiff's mother in furtherance of the conspiracy with employees of defendant UC Regents constituted a highly offensive intrusion into plaintiff's private matters and possessions where plaintiff clearly possessed a reasonable expectation of privacy so it was a violation of at least plaintiff's fourth amendment rights.

170. Defendant John L. Otis conspired with other defendants, notably defendant UC Regents, to intentionally misrepresent plaintiff as suffering from a schizophrenic disorder, and further abused his medical authority by imprisoning plaintiff at Mesa Vista Hospital and prescribing and encouraging plaintiff to take needed medication that debilitated plaintiff. In fact, defendant Otis stated that plaintiff was given medication because he was "thinking too fast." Since defendant Otis' actions were done in furtherance of a conspiracy, and the medical records indicated that plaintiff was referred to him from employees of defendant UC Regents (see paragraph 163).

171. Employees and agents of Mesa Vista Hospital, and therefore the Vista Hill Foundation, were fully aware plaintiff was not in need of treatment and was not "gravely disabled," yet they continued to keep plaintiff at their facility despite his refusal to stay voluntarily and made false statements to support the conclusion that plaintiff was "gravely disabled." In fact, the Mesa Vista employee that admitted plaintiff stated that she chose to classify plaintiff as "gravely disabled" because plaintiff would have been prevented from obtaining a handgun if he were classified as a "danger to self" or "danger to others." In addition, employees of Mesa

Vista Hospital, in furtherance of a bad faith effort to keep plaintiff at their facility, discouraged plaintiff from seeking a Writ of Habeas Corpus in favor of an internal hearing. (Plaintiff was eventually released after he requested a Writ, just prior to the hearing.) In addition, the medical records contains many inconsistencies that support plaintiff's claims that employees of defendant Vista Hill Foundation misrepresented plaintiff's mental state and that they knew plaintiff did not required treatment (see paragraph 165).

172. As previously stated, the object of the conspiracy alleged in this complaint was to cover-up the faked death and admissions fraud. In order to do that, defendant Robert Dynes, then Chancellor of UCSD, and other defendants conspired to deny plaintiff meaningful access to the justice system by wrongful activity exceeding the privileges provided by the first amendment. Defendants used political power and intimidation to destroy the integrity of our system of justice and deprive plaintiff of effective and unbiased legal representation for an otherwise meritorious and economically viable claim, although plaintiff made much more than reasonable effort to attain such representation. Paragraph 109 describes plaintiff's difficulty finding a lawyer including the undeniable evidence that plaintiff could not even get a referral from attorney referral services in San Diego and LA until after filing the original complaint. Defendants and their agents harassed plaintiff over a period of more than nine months, attempted to deceive, delay, and wear down plaintiff, attempted to make plaintiff appear to be suffering from paranoid schizophrenia, and threatened to attempt to "prove" plaintiff is paranoid if he pursues the lawsuit, in order to intimidate, delay, and deter plaintiff from exercising his legal right to access to the justice system. Since most or all such wrongful activity was designed to delay or prevent plaintiff from exercising his legal right to pursue a lawsuit, this activity is a prima facie case of deprivation of plaintiff's rights as protected by 42 U.S.C. § 1983.

173. The wrongful activity described proximately caused general damages to plaintiff in an amount according to proof at trial.

174. At a direct and proximate result of defendants' conduct, plaintiff has also suffered special damages including, but not limited to, lost wages from prospective employment, lost future wages, and incidental expenses in an amount to be determined by proof at trial.

175. Actions by all defendants mentioned for this cause of action were done intentionally with reckless disregard for plaintiff's rights and therefore plaintiff requests exemplary damages from each defendant in an amount to be determined at trial.

Fourth Cause of Action.
Invasion of Privacy, Public Disclosure of Private Facts, Civil Conspiracy
(Against All Defendants)

176. The contents of paragraphs 1 through 175 are incorporated herein as if fully set out.

177. Plaintiff is informed and believes and thereon alleges that the conspirators repeatedly disclosed private information about plaintiff to all or many other members of the conspiracy. Because of the large number of people involved, numbering much more than twenty, these disclosures along with disclosures of conspirators to others not directly involved in the conspiracy were effectively public disclosures. Therefore, the operation of the conspiracy itself often involved public disclosures of private facts about plaintiff. In fact, as mentioned above, there was apparently a movie made about plaintiff's situation, there were apparent references to plaintiff's situation in a number of TV shows, and there were indirect references to plaintiff's situation by the media. This also indicates that plaintiff's life was effective publicly disclosed without his knowledge and the information surely included private facts about plaintiff which were specifically used during the conspiracy as a means to embarrass plaintiff.

178. Since this information was disclosed to a relatively large number of people, it constituted a public disclosure.

179. The information disclosed consisted of facts that were not publicly known and, in fact, some of the information disclosed was probably unknown to plaintiff at the time.

180. These disclosures caused plaintiff damage to reputation and emotional distress at the time and later when plaintiff became aware of the conspiracy. The information may have been disclosed to many people not affiliated with UCSD, including academic colleagues of plaintiff at other universities and previous coworkers. Therefore damages to plaintiff's personal and professional reputation extended far beyond UCSD.

181. At a direct and proximate result of defendants' conduct, plaintiff has suffered general damages and special damages in an amount to be determined by proof at trial.

182. Actions by all defendants mentioned for this cause of action were done intentionally with reckless disregard for plaintiff's rights and therefore plaintiff requests exemplary damages in an amount to be determined at trial.

Fifth Cause of Action.

20 U.S.C. § 1681: Sex Discrimination and Retaliation (Against Defendant UC Regents)

183. The contents of paragraphs 1 through 182 are incorporated herein as if fully set out.

184. Defendant UC Regents receives numerous federal research grants, and plaintiff was, in fact, supported by a federal grant from the National Science Foundation. Because defendant UC Regents receives federal funding, the federal court has jurisdiction over defendant UC Regents regarding claims of sex discrimination under 20 U.S.C. § 1681.

185. Plaintiff will plead two alternate theories of liability. One based on what plaintiff believed had happened while he was still a student at UCSD and one based on what plaintiff now believes was really happening. These alternate theories are used because the case law appears to state that actionable

retaliation occurs when the victim/plaintiff believes he/she is attempting to pursue an action that would potentially reveal a violation of 20 U.S.C. § 1681 (sex discrimination or sexual harassment), even if the person facing retaliation was mistaken with regard to the facts and the law. Therefore, even if there was actually no sex discrimination under the law, but there was retaliation for pursuit of allegations that were reasonably believed to be sex discrimination, there could be a violation based on a retaliation theory.

186. Plaintiff has previously alleged that he originally believed the cover-up related to an invasion of privacy regarding his joining a dating service and the resulting ridicule and harassment by students employed by defendant UC Regents. Plaintiff believed that he was being ridiculed because he had trouble meeting women and noticed that people seemed to know he had joined a dating service and nonetheless did not meet anyone. Therefore, plaintiff believed he was being secretly ridiculed by many students and perhaps even faculty because he had joined a dating and did not meet anyone, and because he generally had trouble meeting women.[11] Because plaintiff believed the ridicule was widespread among university students and perhaps even faculty, from his perspective, it appeared to be a form of sex discrimination or sexual harassment. Further, when plaintiff investigated this situation which appeared to be a form of sexual harassment, plaintiff was stonewalled and his investigation resulted in retaliation in the form of overt surveillance. Eventually, the retaliation in the form of surveillance and the fact that everyone seemed to be lying forced plaintiff to leave the Ph.D. program. Therefore, in plaintiff's mind, his educational interests had been destroyed because he attempted to pursue a lawsuit that would expose

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[11] Given plaintiff's plight, it was understandable that members of the opposite sex who would have been interested in any kind of real relationship avoided plaintiff, because plaintiff was basically a human time bomb and was under surveillance.

an invasion of privacy and/or a form of sexual harassment. In fact, there were two articles in the UCSD Guardian about June Terpstra, the head of the UCSD office handling sexual harassment complaints. She left UCSD because of problems with the UCSD administration blocking her work and being unfair to sexual harassment victims in favor of protecting the accused (e.g. faculty). In fact, in an article dated January 13, 1997, she was quoted as saying, "The more severe the case, the more conservative the approach taken...There appears to be lack of a will to discipline." Therefore, even if the conduct of UCSD employees did not rise to the level of sexual harassment, the resulting retaliation for plaintiff's attempt to pursue a lawsuit made the conduct a title IX violation on a retaliation theory.

187. As described above, defendant UC Regents was not really retaliating against plaintiff because of the invasion of privacy or sexual harassment, but because those issues were part of a larger conspiracy resulting from the admissions fraud and faked death. However, in furtherance of the conspiracy to cover up the fraud, plaintiff now believes that defendant UC Regents actually encouraged graduate students to engage in what could be considered a form of sexual harassment or sex discrimination, in order to embarrass plaintiff so that he would be too embarrassed to investigate this issue. Specifically, plaintiff believes that fellow graduate students employed by defendant UC Regents conspired to set up plaintiff in situations that would embarrass plaintiff regarding his difficulties meeting women and the fact that he joined the dating service. This was done specifically to discourage plaintiff from investigating these and other issues by creating embarrassing situations. An example of such a set up was provided above in paragraph 84.

188. At a direct and proximate result of defendant UC Regents' conduct, plaintiff has suffered general damages and special damages in an amount to be determined by proof at trial.

Sixth Cause of Action
Code of Civil Procedure § 527.6:
Injunctive relief from harassment.
(Against Defendants Richard Atkinson and Robert Dynes)

189. The contents of paragraphs 1 through 188 are incorporated herein as if fully set out.

190. For more than 18 months, plaintiff has been aware that he is in the midst of almost continuous surveillance and harassment, and the surveillance and conspiracy apparently has been present, in some form, since he arrived at UCSD in September 1993. As the UC President and UCSD Chancellor, defendants Richard Atkinson and Robert Dynes must have the authority to stop this mistreatment of plaintiff.

191. Even while writing this complaint, plaintiff has heard a number of noises and observed glitches, coordinated with plaintiff's activity, that must have been the result of monitoring and this conspiracy to deter plaintiff from pursuing this lawsuit. One of plaintiff's primary goals in pursuing this lawsuit was and is to end the surveillance and conspiracies so that can plaintiff begin to pursue a normal life. However, plaintiff does not believe an injunction would be particularly effective in this situation until plaintiff has obtained more detailed evidence explaining the operation of the conspiracy because otherwise any injunction would be impossible to enforce. For example, it would be nearly impossible to attempt to enforce an injunction against each of the large number of people participating in the surveillance operation, so only a top-down approach makes sense. Therefore, plaintiff hopes he will be allowed to conduct discovery so that he can finally obtain some relief from this situation that is so bad that plaintiff has often suffered serious emotional distress and resulting mental blocks just attempting to write this pleading, but there is apparently no other way out of this situation.

WHEREFORE, the plaintiff prays for judgement from defendants for:

1. Injunctive relief pursuant to CCP § 527.6;
2. General damages according to proof;
3. Special damages including incidental expenses and lost wages according to proof for any causes of action that request them;
4. Punitive damages for defendant all defendants except defendants UC Regents for any causes of action that request them;
5. Prejudgment interest according to law;
6. Cost of suit, including attorney fees, pursuant to 42 U.S.C. § 1988;
7. Such other relief as this court may deem just and proper.

Dated July 24, 1998

/s/ David A. White
David A. White
Plaintiff, Pro Per

APPENDIX I
Feynman's Secret "Joke"

Richard P. Feynman, in his book, *"Surely You're Joking, Mr. Feynman!"*,[1] surreptitiously insinuated the existence of an ultra-secret government project to develop time machines. This project, perhaps called the Omega Project, was apparently undertaken in the early 1940's at Los Alamos National Labs in New Mexico (near Roswell) and apparently had first succeeded by 1945. Feynman would have been aware of such a project since he was a physicist working at Los Alamos in the early 1940's on the Manhattan project (the A-bomb project) and later won the Nobel Prize. Although the references to the time machine project would be all but invisible to the uninformed reader, they are nonetheless clearly present (probability of mere coincidence is very small). Furthermore, since the writer of this section has never had access to any classified information whatsoever, much less access to information associated with the time machine project, and has limited time to analyze the book, many secret references to the project may have been missed. For lack of a better order, the references are listed in the order they appear in the book.

The first point to mention is that the time machine project is (somehow) still classified now in the year 2000 (about 55 years later) and was definitely classified in 1985, when Feynman published his book. Therefore, since Feynman was aware of the project, he was officially required to deny the existence of any such project or even the 40 year old physics used in the project, and officially did so in his book. Such

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[1] Copyright 1985 by Richard P. Feynman and Ralph Leighton. Edited by Edward Hutchings. First published in paperback in 1997. All page references refer to the paperback edition, but for reason described later, the page numbers are likely the same in the hardcover edition. Published by W.W. Norton & Company in New York and London. Library of Congress Number: QC16.F49A37 1985 530'092'4 [B]. The book was apparently a New York Times Bestseller.

denials must have inevitably become a sort of secret joke after *40 years* and may well have been the real point of the title (rather than the chapter with the same name as the title). In the introduction on page 9-10, the existence of Feynman's secret joke was mentioned, and then, of course, denied.

On page 17, he first makes a supposedly "random" reference to Waco, Texas, (this was 1985, before the U.S. government's scandal with the Branch *Davidi*ans in Waco) and then talks about how he was able to obtain a radio broadcast one hour ahead of time and could use it to predict what would happen later on the radio broadcast. (Note: the time machines would provide the same thing.)

On pages 45-47, at the beginning of the chapter entitled "Always Trying to Escape," he makes a slew of references to the project. First all, the page numbers refer to the years 1945 and 1947. The Atomic Bomb was first successfully tested and used on Japan in 1945, and the first time machine was likely built by 1945. On that page, he says, "I wrote about liberty in social occasions--the problem of having to fake and lie in order to be polite, and does this perpetual game of faking in social situations lead to the 'destruction of the moral fiber of society.'" Petitioner believes this refers to the huge lie he and others were forced to perpetuate on the public regarding the time machines and how it had become immoral. Then Feynman immediately mentions criticizing a story "On a Piece of Chalk" by Huxley. (According to the index, this was Thomas Huxley.) Another Huxley, Aldous Huxley, is famous for his book *Brave New World* (1932), which describes a Utopia that Feynman may have identified as most prophetic of the effect of the time machines and resulting technologies on our world (petitioner cannot comment without reading the book). Then Feynman mentions that chalk came from the "White Cliffs" which refers to petitioner White, and refers to the chalk (i.e. petitioner) writing on the blackboard ("writing on the wall"). The common phrase "read the writing on the wall" is

probably derived from the Biblical tale in Daniel 5,[2] where Daniel interprets supernatural writing on the wall for the king. In the story, Daniel interprets the writing as stating that the king's reign is over, and that very night, the king was slain.

On page 46, Feynman explains the title of the chapter when he admits, "I was always a faker, always trying to escape." In fact, Feynman's last name indicates he is a faker, since it sounds like "feign man." Thereafter, on page 46, he refers to Goette's *Faust*. In the story, Faust was a doctor who sold his soul to the devil (Mephistopheles) for youth, knowledge, and magical power. Time machines provide knowledge and seemingly magical power, but required an arguably devilish conspiracy. Feynman said he wrote a paper about how "moral values cannot be decided by scientific methods." Obviously, he was referring to the original morality and later immorality in the lies he had to perpetuate on the public and the fact that scientists were not making the decisions about the lies. On page 47, he predictably referred to Martians (i.e. space aliens). Of course, on July 7, 1947 (i.e. 7-7-47), the press released stories about UFO's in Roswell, NM, which is near Los Alamos. The Roswell space alien story is related because the government needed a cover story to explain how it could have obtained the advanced technology that was actually obtained from the future using the time machine. The cover story was important since the government did not want any other governments to even suspect that time machines could be built and realize how critical such technology would be. If there was no explanation for the advanced technology, the other governments might become suspicious regarding its origin. After mentioning the "Martians," he immediately talks about writing a paper about dreaming. The real point of his

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[2] Since Daniel lived in Babylon, this chapter might be called "Babylon 5" which is a science fiction T.V. show which describes "Babylon 5" as designed to ensure peace.

discourse on dreams was that the Roswell story in 1947 was the beginning of an approximate half-century dream during which the American people, and the world, would be out of touch with reality. The dream was not simply the time machine itself, but a rash of revolutionary top secret projects and repeated lies to the public that were the inevitable result.

In the chapter entitled "Meeeeeeeeee!" starting on page 66, Feynman talked about his experiences being hypnotized. There seemed to be two points of his story. One point was to explain how the use of mind control and time machines would effect a person (absolute power), and the other point was that he himself was under control. He said, "All the time you're saying to yourself, 'I could do that, but I won't'—which is just another way of saying that you can't." This explains why he was "always trying to escape," yet never quite able to escape. Finally, note that page "66" seems to refer to the "beast" whose number is "666" according to Revelation 13:18. Furthermore, it could be that the mass mind-reading began working as early as June 1966 (6-66), so page 66 could also mean 1966. (This is certainly not inconceivable since the government had time machines for more than twenty years before then.)

In petitioner's opinion, the most interesting chapter in the book is "Monster Minds" on pages 77-80. This chapter seems to tell the story of Feynman's first technical talk as a graduate student working with Prof. John Wheeler, how this talk drew the attention of various "Monster Minds" including Henry Norris Russell, Von Neumann, Einstein, and Pauli, and how the intimidated Feynman was able to overcome his fear and give a successful talk by focusing only on Physics. Actually, this was not the point the chapter at all, but seeing that requires careful analysis and an intuitive understanding of the physics. In fact, after reanalysis, it not even clear whether any events described by Feynman in the chapter ever really happened.

Feynman's real point was that *physicists have "half-advanced and half-retarded potentials" in order to avoid*

becoming "monster minds" like Frankenstein, since developing correct quantum theories would allow anyone to build dangerous time machines. Petitioner arrived at this interpretation after realizing Feynman's story was at least partially a farce. First, observe that Feynman, on page 78, is describing a theory about waves moving backwards in time which obviously might allow someone to build a time machine. (Of course, a time machine would be a sort of Holy Grail of physics more important than the A-bomb or H-bomb.) However, according to the story, Wheeler proposed the outline of this supposedly new theory *off the top of his head.* The only reasonable conclusion is that the theory either was obvious or was already known to Wheeler but unpublished. Then, Feynman and Wheeler supposedly called their theory "half-advanced and half-retarded potentials." This name was supposed to refer to waves going back and forth in time, but, in context, it more likely applied to the physicists who somehow manage to be "half-retarded" so they could avoid revealing information about time machines. Then, Feynman supposedly gave an open seminar describing his new (very dangerous time machine) theory. During the supposed seminar, Feynman said Pauli harshly criticized the theory for numerous reasons, but Einstein stated that the theory could be correct and even suggested that it could partially refute his General Theory of Relativity. In other words, he portrayed an apparently unrealistically frank Einstein. Petitioner has read that the real Einstein (somehow) had trouble understanding quantum physics and was, for instance, skeptical of Heisenberg's uncertainty principle. Hence the title, "Monster Minds," really referred to the danger of Feynman's apparently-fictional "Frank Einstein" character and the danger of pursuing theories related to time machines. Like the scientist character named "Frankenstein" in Mary Shelley's book *Frankenstein*, Feynman's "frank Einstein" actively sought out knowledge purely based on scientific interest with utter disregard for the moral issues. Finally, notice that the chapter begins on page 77. There are

many biblical references to seven (see next section of appendix) and the Roswell UFO press release occurred on July 7, 1947 (7-7-47).

On page 132 are the obvious references to the building of time machines at Los Alamos. First of all, many people have speculated that John Von Neumann was the basis for the "Dr. Strangelove" character in Stanley Kubrick's film, "Dr. Strangelove: Or How I learned to Stop Worrying and Love the Bomb." In fact, Feynman basically said Von Neumann taught him to stop worrying...

> And Von Neumann gave me an interesting idea: that you don't have to be responsible for the world that you're in. So I have developed a very powerful sense of social irresponsibility as a result of Von Neumann's advice. It's made me a very happy man ever since. But it was Von Neumann who put the seed in that grew into my *active* irresponsibility!

In the next paragraph, still on page 132, Feynman immediately discussed Niels Bohr. Note that Niels Bohr was (and is) a very famous physicist from Copenhagen known for his work on Quantum Mechanics who was involved with the Manhattan Project after fleeing from a Nazis occupation in 1943. Obviously, the name "Bohr" sounds like "bore" and can mean a tunnel, as in a tunnel through time. More interestingly, Feynman pointed out that Bohr's son was named "Aage Bohr" which seems to directly refer to an "age bore" or time tunnel (machine). Furthermore, Feynman pointed out that Niels Bohr apparently used the name "Nicholas Baker" while working at Los Alamos in the United States. Likely, Niels Bohr's nickname ("nickname" is another curious pun) "Nicholas Baker" was no accident and implies that he helped create a "[St.] Nicholas" or Santa Claus. A time machine and resulting technology is a lot like Santa Claus. Like Santa Claus, the time machine would produce gifts such as technology and predictions of the future. In addition, the song, "Santa Claus is Coming to

Town" states, "He sees you when you're sleeping. He knows when you're awake. He knows if you've been bad or good, So be good for goodness sake." This aspect of Santa Claus seems to refer to the omniscient (mass mindreading) technology that resulted from the time machine.

On page 150, Feynman talked about a "Building Omega" in the context of his safecracking experiences. According to Feynman, this "Building Omega" was several miles from Los Alamos in an isolated spot and had its own fence around it with guard towers. Feynman said that Building Omega was used for partial chain reaction testing for the bomb, "*so they could tell that* things were really starting correctly, that the rates were right, and *everything was going according to prediction—a very dangerous experiment!*" (emphasis added). Petitioner believes that Building Omega, if it really exists, was actually used to hold the time machines because the name "Omega" probably refers to Revelations 1:8 (App. 151a) indicating "timelessness." If so, Feynman would have been correct in stating that the "experiments" being done in Building Omega were very dangerous.

In the chapter entitled "Uncle Sam Doesn't Need <u>You</u>!" on page 156-163, Feynman describes his experience with psychiatrists during his physical for possible recruitment into the army. The psychiatrist was in booth thirteen. The end result was that he was rejected because he failed the psychiatric exam, although he admitted he "had decided that psychiatrists are fakers," even before the exam started. The first psychiatrist (of two) wrote, "Thinks people talk about him. Thinks people stare at him. Auditory hypnogogic hallucinations. Talks to self. Talks to deceased wife. Maternal aunt in mental institution. Very peculiar stare." Feynman wrote a letter to the army attempting to get rejected because he taught science students rather than for psychiatric reasons, but they still rejected him for medical reasons.

On page 268, Feynman noted that the false name he uses to sign his drawings so that he could sell them without anyone knowing his was a physics professor. He said, "I

spelled it O-f-e-y, which turned out to be a name the blacks used for 'whitey.' But after all, I was a whitey, so it was all right." This reference to "white" and the previous reference to being classified as a nut by psychiatrists seemed to be referring petitioner White.

In the chapter "Judging Books by their Covers" starting on page 288, Feynman told two stories, one about the Army, and another about his misadventures reviewing science books for the California Department of Education, indicating that he does not judge books by their covers although almost everyone else does. Therefore, it should not be the least bit surprising that the book itself has much more to say than is readily apparent.

On page 310-311, Feynman commented, half jokingly, that nobody knows anything about the weather, social problems, psychology, and international finance. However, later, when talking to a Japanese ambassador, the ambassador added international relations to the last. Then Feynman mentioned that it was remarkable that Japan had so rapidly become such a modern and important country, and asked the ambassador what characteristic of the Japanese people made it possible. The ambassador admitted that he did not know, but suggested it related to their belief in education. Petitioner hypothesizes that one (if not *the*) secret of Japan's success is the development of time machines to help their economy develop, etc.

On page 337, Feynman ended a paragraph about a hallucination saying, "I can only remember things like a white sign with a pimple on it, in Chicago, and then it disappears." Note that petitioner White was born in Chicago and had acne.

In the last chapter entitled "Cargo Cult Science," Feynman discusses various forms of pseudo-science such as that surrounding UFOs, mysticism, ESP, etc. In this chapter, Feynman seems to be saying exactly what he means (without spilling any beans, of course). He provides a very good example of primitive South Sea islanders who saw planes

land during World War II with lots of useful cargo (hence "Cargo Cult Science"). Later, they attempted to encourage more planes with cargo to land by building their own primitive runways and (air traffic) controllers. But the planes did not land despite the fact that their runways and controllers looked just like the other ones they saw. Obviously they were missing something essential, but they just did not understand. Feynman pointed out one feature that he noticed seemed to be missing from these fields. That was what he called "scientific integrity." This "scientific integrity" included the following points: (1) do not fool yourself, (2) publish positive and negative results or results that confirm or refute your theory, (3) repeat the prior experiment before attempting new variations of the experiment, and (4) remember to focus on how to do experiments correctly rather than only obtaining "new" results. Most importantly, he ends his book with the following paragraph that reminds us that scientists are often not allowed to have the type of scientific integrity he described. Perhaps this was to remind us that his secret "joke" is not a joke at all, since Feynman "was always a faker, always trying to escape" (page 46).

> So I have just one wish for you—the good luck to be somewhere where you are free to maintain the kind of integrity I have described, and where you do not feel forced by a need to maintain your position in the organization, or financial support, or so on, to lose your integrity. May you have that freedom.

APPENDIX J
Biblical References[1]
Breaking the Code?

Revelation 1 (Misc. Verses: Timelessness & Messengers)

4 John, To the seven churches in the province of Asia: Grace and peace to you from him who is, and who was, and who is to come, and from the seven spirits[2] before his throne,

8 "I am the Alpha and the Omega," says the Lord God, "who is, and who was, and who is to come, the Almighty."

13 and among the lampstands was someone "like a son of man,"[3] dressed in a robe reaching down to his feet and with a golden sash around his chest.

17 When I saw him, I fell at his feet as though dead. Then he placed his right hand on me and said: "Do not be afraid. I am the First and the Last.

20 The mystery of the seven stars that you saw in my right hand and of the seven golden lampstands is this: The seven stars are the angels[4] of the seven churches, and the seven lampstands are the seven churches.

Revelation 3:7-12 (Filed/Due 3-8-2000, Pandora's Box)

7 "To the angel[5] of the church in Philadelphia write: These are the words of him who is holy and true, who holds the key of David. What he opens no one can shut, and what he shuts no one can open.

8 I know your deeds. See, I have placed before you an open door that no one can shut. I know that you have little strength, yet you have kept my word and have not denied my name.

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[1] Biblical Quotations are from *The Holy Bible: New International Version*®. Copyright © 1973, 1978, 1984 by International Bible Society.

[2] Revelation 1:4: Or sevenfold Spirits

[3] Revelation 1:13: Similar to Daniel 7:13

[4] Revelation 1:20: Or Messengers

[5] Revelation 3:7: Or Messenger

9 I will make those who are of the synagogue of Satan, who claim to be Jews though they are not, but are liars--I will make them come and fall down at your feet and acknowledge that I have loved you.

10 Since you have kept my command to endure patiently, I will also keep you from the hour of trial that is going to come upon the whole world to test those who live on the earth.

11 I am coming soon. Hold on to what you have, so that no one will take your crown.

12 Him who overcomes I will make a pillar in the temple of my God. Never again will he leave it. I will write on him the name of my God and the name of the city of my God, the new Jerusalem, which is coming down out of heaven from my God; and I will also write on him my new name.

Revelation 4:7 (Roswell on 7-7-47, 4th Creature is USA)

7 The first living creature was like a lion, the second was like an ox, the third had a face like a man, the fourth was like a flying eagle.

Revelation 5:1-10 (Petitioner's Birthday is May 6)

1 Then I saw in the right hand of him who sat on the throne a scroll with writing on both sides and sealed with seven seals.

2 And I saw a mighty angel proclaiming in a loud voice, "Who is worthy to break the seals and open the scroll?"

3 But no one in heaven or on earth or under the earth could open the scroll or even look inside it.

4 I wept and wept because no one was found who was worthy to open the scroll or look inside.

5 Then one of the elders said to me, "Do not weep! See, the Lion of the tribe of Judah, the Root of David, has triumphed. He is able to open the scroll and its seven seals."

6 Then I saw a Lamb, looking as if it had been slain, standing in the center of the throne, encircled by the four

living creatures and the elders. He had seven horns and seven eyes, which are the seven spirits[6] of God sent out into all the earth.

7 He came and took the scroll from the right hand of him who sat on the throne.

8 And when he had taken it, the four living creatures and the twenty-four elders fell down before the Lamb. Each one had a harp and they were holding golden bowls full of incense, which are the prayers of the saints.

9 And they sang a new song: "You are worthy to take the scroll and to open its seals, because you were slain, and with your blood you purchased men for God from every tribe and language and people and nation.

10 You have made them to be a kingdom and priests to serve our God, and they will reign on the earth."

Revelation 13:16-18 (The Beast, "His number is 666")

16 He also forced everyone, small and great, rich and poor, free and slave, to receive a mark on his right hand or on his forehead,

17 so that no one could buy or sell unless he had the mark, which is the name of the beast or the number of his name.

18 This calls for wisdom. If anyone has insight, let him calculate the number of the beast, for it is man's number. His number is 666.

Daniel 5 ("Reading the Writing on the Wall")

1 King Belshazzar gave a great banquet for a thousand of his nobles and drank wine with them.

2 While Belshazzar was drinking his wine, he gave orders to bring in the gold and silver goblets that Nebuchadnezzar his father[7] had taken from the temple in Jerusalem, so that the king and his nobles, his wives and his concubines might

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[6] Revelation 5:6: Or sevenfold Spirits

[7] Daniel 5:2: Or ancestor; or predecessor; also in verses 11, 13 and 18

drink from them.

3 So they brought in the gold goblets that had been taken from the temple of God in Jerusalem, and the king and his nobles, his wives and his concubines drank from them.

4 As they drank the wine, they praised the gods of gold and silver, of bronze, iron, wood and stone.

5 Suddenly the fingers of a human hand appeared and wrote on the plaster of the wall, near the lampstand in the royal palace. The king watched the hand as it wrote.

6 His face turned pale and he was so frightened that his knees knocked together and his legs gave way.

7 The king called out for the enchanters, astrologers[8] and diviners to be brought and said to these wise men of Babylon, "Whoever reads this writing and tells me what it means will be clothed in purple and have a gold chain placed around his neck, and he will be made the third highest ruler in the kingdom."

8 Then all the king's wise men came in, but they could not read the writing or tell the king what it meant.

9 So King Belshazzar became even more terrified and his face grew more pale. His nobles were baffled.

10 The queen,[9] hearing the voices of the king and his nobles, came into the banquet hall. "O king, live forever!" she said. "Don't be alarmed! Don't look so pale!

11 There is a man in your kingdom who has the spirit of the holy gods in him. In the time of your father he was found to have insight and intelligence and wisdom like that of the gods. King Nebuchadnezzar your father--your father the king, I say--appointed him chief of the magicians, enchanters, astrologers and diviners.

12 This man Daniel, whom the king called Belteshazzar, was found to have a keen mind and knowledge and understanding, and also the ability to interpret dreams,

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[8] Daniel 5:7: Or Chaldeans; also in verse 11

[9] Daniel 5:10: Or queen mother

explain riddles and solve difficult problems. Call for Daniel, and he will tell you what the writing means."

13 So Daniel was brought before the king, and the king said to him, "Are you Daniel, one of the exiles my father the king brought from Judah?

14 I have heard that the spirit of the gods is in you and that you have insight, intelligence and outstanding wisdom.

15 The wise men and enchanters were brought before me to read this writing and tell me what it means, but they could not explain it.

16 Now I have heard that you are able to give interpretations and to solve difficult problems. If you can read this writing and tell me what it means, you will be clothed in purple and have a gold chain placed around your neck, and you will be made the third highest ruler in the kingdom."

17 Then Daniel answered the king, "You may keep your gifts for yourself and give your rewards to someone else. Nevertheless, I will read the writing for the king and tell him what it means.

18 "O king, the Most High God gave your father Nebuchadnezzar sovereignty and greatness and glory and splendor.

19 Because of the high position he gave him, all the peoples and nations and men of every language dreaded and feared him. Those the king wanted to put to death, he put to death; those he wanted to spare, he spared; those he wanted to promote, he promoted; and those he wanted to humble, he humbled.

20 But when his heart became arrogant and hardened with pride, he was deposed from his royal throne and stripped of his glory.

21 He was driven away from people and given the mind of an animal; he lived with the wild donkeys and ate grass like cattle; and his body was drenched with the dew of heaven, until he acknowledged that the Most High God is sovereign

over the kingdoms of men and sets over them anyone he wishes.

22 "But you his son,[10] O Belshazzar, have not humbled yourself, though you knew all this.

23 Instead, you have set yourself up against the Lord of heaven. You had the goblets from his temple brought to you, and you and your nobles, your wives and your concubines drank wine from them. You praised the gods of silver and gold, of bronze, iron, wood and stone, which cannot see or hear or understand. But you did not honor the God who holds in his hand your life and all your ways.

24 Therefore he sent the hand that wrote the inscription.

25 "This is the inscription that was written: MENE, MENE, TEKEL, PARSIN[11]

26 "This is what these words mean:[12]: God has numbered the days of your reign and brought it to an end.

27 [13]: You have been weighed on the scales and found wanting.

28 [14]: Your kingdom is divided and given to the Medes and Persians."

29 Then at Belshazzar's command, Daniel was clothed in purple, a gold chain was placed around his neck, and he was proclaimed the third highest ruler in the kingdom.

30 That very night Belshazzar, king of the Babylonians,[15] was slain,

31 and Darius the Mede took over the kingdom, at the age of sixty-two.

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[10] Daniel 5:22: Or descendant; or successor

[11] Daniel 5:25: Aramaic UPARSIN (that is, AND PARSIN)

[12] Daniel 5:26: Mene can mean numbered or mina (a unit of money).

[13] Daniel 5:27: Tekel can mean weighed or shekel.

[14] Daniel 5:28: Peres (the singular of Parsin) can mean divided or Persia or a half mina or a half shekel.

[15] Daniel 5:30: Or Chaldeans

Daniel 7
(Verses 7 & 23-27: 4th Beast is Democracy/USA, Roswell 7-7-47)
(Verse 13 [7:13]: Jesus Christ? See Revelation 1:13)
(Verse 26: U.S. Supreme Court, 26 is 2x13 or 2000 x USA)

1 In the first year of Belshazzar king of Babylon, Daniel had a dream, and visions passed through his mind as he was lying on his bed. He wrote down the substance of his dream.

2 Daniel said: "In my vision at night I looked, and there before me were the four winds of heaven churning up the great sea.

3 Four great beasts, each different from the others, came up out of the sea.

4 "The first was like a lion, and it had the wings of an eagle. I watched until its wings were torn off and it was lifted from the ground so that it stood on two feet like a man, and the heart of a man was given to it.

5 "And there before me was a second beast, which looked like a bear. It was raised up on one of its sides, and it had three ribs in its mouth between its teeth. It was told, `Get up and eat your fill of flesh!'

6 "After that, I looked, and there before me was another beast, one that looked like a leopard. And on its back it had four wings like those of a bird. This beast had four heads, and it was given authority to rule.

7 "After that, in my vision at night I looked, and there before me was a fourth beast--terrifying and frightening and very powerful. It had large iron teeth; it crushed and devoured its victims and trampled underfoot whatever was left. It was different from all the former beasts, and it had ten horns.

8 "While I was thinking about the horns, there before me was another horn, a little one, which came up among them; and three of the first horns were uprooted before it. This horn had eyes like the eyes of a man and a mouth that spoke boastfully.

9 "As I looked, "thrones were set in place, and the Ancient of Days took his seat. His clothing was as white as snow; the hair of his head was white like wool. His throne was flaming with fire, and its wheels were all ablaze.

10 A river of fire was flowing, coming out from before him. Thousands upon thousands attended him; ten thousand times ten thousand stood before him. The court was seated, and the books were opened.

11 "Then I continued to watch because of the boastful words the horn was speaking. I kept looking until the beast was slain and its body destroyed and thrown into the blazing fire.

12 (The other beasts had been stripped of their authority, but were allowed to live for a period of time.)

13 "In my vision at night I looked, and there before me was one like a son of man, coming with the clouds of heaven. He approached the Ancient of Days and was led into his presence.

14 He was given authority, glory and sovereign power; all peoples, nations and men of every language worshiped him. His dominion is an everlasting dominion that will not pass away, and his kingdom is one that will never be destroyed.

15 "I, Daniel, was troubled in spirit, and the visions that passed through my mind disturbed me.

16 I approached one of those standing there and asked him the true meaning of all this. "So he told me and gave me the interpretation of these things:

17 `The four great beasts are four kingdoms that will rise from the earth.

18 But the saints of the Most High will receive the kingdom and will possess it forever--yes, for ever and ever.'

19 "Then I wanted to know the true meaning of the fourth beast, which was different from all the others and most terrifying, with its iron teeth and bronze claws--the beast that crushed and devoured its victims and trampled underfoot whatever was left.

20 I also wanted to know about the ten horns on its head and about the other horn that came up, before which three of them fell--the horn that looked more imposing than the others and that had eyes and a mouth that spoke boastfully.

21 As I watched, this horn was waging war against the saints and defeating them,

22 until the Ancient of Days came and pronounced judgment in favor of the saints of the Most High, and the time came when they possessed the kingdom.

23 "He gave me this explanation: `The fourth beast is a fourth kingdom that will appear on earth. It will be different from all the other kingdoms and will devour the whole earth, trampling it down and crushing it.

24 The ten horns are ten kings who will come from this kingdom. After them another king will arise, different from the earlier ones; he will subdue three kings.

25 He will speak against the Most High and oppress his saints and try to change the set times and the laws. The saints will be handed over to him for a time, times and half a time.[16]

26 "`But the court will sit, and his power will be taken away and completely destroyed forever.

27 Then the sovereignty, power and greatness of the kingdoms under the whole heaven will be handed over to the saints, the people of the Most High. His kingdom will be an everlasting kingdom, and all rulers will worship and obey him.'

28 "This is the end of the matter. I, Daniel, was deeply troubled by my thoughts, and my face turned pale, but I kept the matter to myself."

Daniel 12:8-13 (See Notes at the End)

8 I heard, but I did not understand. So I asked, "My lord, what will the outcome of all this be?"

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[16] Daniel 7:25: Or for a year, two years and half a year

9 He replied, "Go your way, Daniel, because the words are closed up and sealed until the time of the end.

10 Many will be purified, made spotless and refined, but the wicked will continue to be wicked. None of the wicked will understand, but those who are wise will understand.

11 "From the time that the daily sacrifice is abolished and the abomination that causes desolation is set up, there will be 1,290 days.

12 Blessed is the one who waits for and reaches the end of the 1,335 days.

13 "As for you, go your way till the end. You will rest, and then at the end of the days you will rise to receive your allotted inheritance."

Notes: The physicist's coup via pretended ignorance of time machines seems to be predicted in Daniel 12:10, "None of the wicked will understand, but those who are wise will understand." It appears there will be approximately 1335 days from the beginning of petitioner's struggle on September 3, 1997 (App. 99a) until the date the Supreme Court expected to decide the Writ of Certiorari. Daniel 12:12 refers to 1,335 days. Feynman's best clue regarding time machines is on page 132 (i.e. 12x11), seemingly referring to Daniel 12:11 which is between the previous two references. Daniel 12:11 itself refers to "the daily sacrifice" which petitioner believes is the government's secret human experimentation program (which seems to have the same massive scope and harm as the conspiracy of big tobacco).

Final Note: There also appear to be many references to petitioner's life from Qabalah (a.k.a. Kabbalah) and its Tree of Life. Due to lack of time, greater difficulty in explaining the references or proving the relationships, these are not included here. These other religious philosophies related to magic and alchemy seem to have been rejected by Christianity. Nonetheless, this philosophy seems to have

predicted the eventual evolution of mankind into "Malkuth"[17] which seems to be the equivalent of the one timeless "God" who could have created the various religions. This view of "God" as an evolution of mankind seems more consistent with the idea of time travel.

[17] It sounds like Malkovich from the movie "Being John Malkovich."

APPENDIX K
"The Raven" and "To Helen"
by Edgar Allan Poe

The Raven
By Edgar Allan Poe (First Published in 1845)

Once upon a midnight dreary, while I pondered, weak and weary,
Over many a quaint and curious volume of forgotten lore –
While I nodded, nearly napping, suddenly there came a tapping,
As of some one gently rapping, rapping at my chamber door.
'Tis some visitor,' I muttered, 'tapping at my chamber door –
Only this and nothing more.'

Ah, distinctly I remember it was in the bleak December;
And each separate dying ember wrought its ghost upon the floor.
Eagerly I wished the morrow; - vainly I had sought to borrow
From my books surcease of sorrow - sorrow for the lost Lenore –
For the rare and radiant maiden whom the angels name Lenore –
Nameless here for evermore.

And the silken, sad, uncertain rustling of each purple curtain
Thrilled me - filled me with fantastic terrors never felt before;
So that now, to still the beating of my heart, I stood repeating
'Tis some visitor entreating entrance at my chamber door –
Some late visitor entreating entrance at my chamber door; -
This it is and nothing more.'

Presently my soul grew stronger; hesitating then no longer,
'Sir,' said I, 'or Madam, truly your forgiveness I implore;
But the fact is I was napping, and so gently you came rapping,
And so faintly you came tapping, tapping at my chamber door,
That I scarce was sure I heard you' - here I opened wide the door;
Darkness there and nothing more.

Deep into that darkness peering, long I stood there wondering, fearing,
Doubting, dreaming dreams no mortal ever dared to dream before;
But the silence was unbroken, and the stillness gave no token,
And the only word there spoken was the whispered word, 'Lenore!'
This I whispered, and an echo murmured back the word 'Lenore!'
Merely this and nothing more.

Back into the chamber turning, all my soul within me burning,
Soon again I heard a tapping somewhat louder than before.
'Surely,' said I, 'surely that is something at my window lattice;
Let me see, then, what thereat is, and this mystery explore –
Let my heart be still a moment and this mystery explore; -
'Tis the wind and nothing more!'

Open here I flung the shutter, when, with many a flirt and flutter
In there stepped a stately Raven of the saintly days of yore.
Not the least obeisance made he; not a minute stopped or stayed he;
But, with mien of lord or lady, perched above my chamber door –
Perched upon a bust of Pallas just above my chamber door –
Perched, and sat, and nothing more.

Then this ebony bird beguiling my sad fancy into smiling,
By the grave and stern decorum of the countenance it wore,
'Though thy crest be shorn and shaven, thou,' I said, 'art sure no craven,
Ghastly grim and ancient Raven wandering from the Nightly shore –
Tell me what thy lordly name is on the Night's Plutonian shore!'
Quoth the Raven 'Nevermore.'

Much I marvelled this ungainly fowl to hear discourse so plainly,
Though its answer little meaning - little relevancy bore;
For we cannot help agreeing that no living human being
Ever yet was blessed with seeing bird above his chamber door –
Bird or beast upon the sculptured bust above his chamber door,
With such name as 'Nevermore.'

But the Raven, sitting lonely on the placid bust, spoke only
That one word, as if his soul in that one word he did outpour.
Nothing farther then he uttered - not a feather then he fluttered –
Till I scarcely more than muttered 'Other friends have flown before –
On the morrow he will leave me, as my hopes have flown before.'
Then the bird said 'Nevermore.'

Startled at the stillness broken by reply so aptly spoken,
'Doubtless,' said I, 'what it utters is its only stock and store
Caught from some unhappy master whom unmerciful Disaster
Followed fast and followed faster till his songs one burden bore –
Till the dirges of his Hope that melancholy burden bore
Of 'Never - nevermore.'

But the Raven still beguiling all my fancy into smiling,
Straight I wheeled a cushioned seat in front of bird and bust and door;
Then, upon the velvet sinking, I betook myself to linking
Fancy unto fancy, thinking what this ominous bird of yore –
What this grim, ungainly, ghastly, gaunt, and ominous bird of yore
Meant in croaking 'Nevermore.'

This I sat engaged in guessing, but no syllable expressing
To the fowl whose fiery eyes now burned into my bosom's core;
This and more I sat divining, with my head at ease reclining
On the cushion's velvet lining that the lamp - light gloated o'er,
But whose velvet violet lining with the lamp - light gloating o'er,
She shall press, ah, nevermore!

Then, methought, the air grew denser, perfumed from an unseen censer
Swung by Seraphim whose foot - falls tinkled on the tufted floor.
'Wretch,' I cried, 'thy God hath lent thee - by these angels he hath sent thee
Respite - respite and nepenthe from thy memories of Lenore;
Quaff, oh quaff this kind nepenthe and forget this lost Lenore!'
Quoth the Raven 'Nevermore.'

'Prophet!' said I, 'thing of evil! prophet still, if bird or devil! –
Whether Tempter sent, or whether tempest tossed thee here ashore,
Desolate yet all undaunted, on this desert land enchanted –
On this home by Horror haunted - tell me truly, I implore –
Is there - is there balm in Gilead? - tell me - tell me, I implore!'
Quoth the Raven 'Nevermore.'

'Prophet!' said I, 'thing of evil! - prophet still, if bird or devil!
By that Heaven that bends above us - by that God we both adore
Tell this soul with sorrow laden if, within the distant Aidenn,
It shall clasp a sainted maiden whom the angels name Lenore –
Clasp a rare and radiant maiden whom the angels name Lenore.'
Quoth the Raven 'Nevermore.'

'Be that word our sign of parting, bird or fiend!' I shrieked, upstarting –
'Get thee back into the tempest and the Night's Plutonian shore!
Leave no black plume as a token of that lie thy soul hath spoken!
Leave my loneliness unbroken! - quit the bust above my door!
Take thy beak from out my heart, and take thy form from off my door!'
Quoth the Raven 'Nevermore.'

And the Raven, never flitting, still is sitting, still is sitting
On the pallid bust of Pallas just above my chamber door;
And his eyes have all the seeming of a demon's that is dreaming,
And the lamp - light o'er him streaming throws his shadow on the floor;
And my soul from out that shadow that lies floating on the floor
Shall be lifted - nevermore!

To Helen
By Edgar Allan Poe (First Published in 1831)

Helen, thy beauty is to me
Like those Nicean barks of yore,
That gently, o'er a perfumed sea,
The weary, wayworn wanderer bore
To his own native shore.

On desperate seas long wont to roam,
Thy hyacinth hair, thy classic face,
Thy Naiad airs have brought me home
To the glory that was Greece ,
And the grandeur that was Rome.

Lo! in yon brilliant window-niche
How statue-like I see thee stand,
The agate lamp within thy hand!
Ah, Psyche, from the regions which
Are Holy Land!

APPENDIX L
Baby Pictures:
Notice Groove on Top of Head